

1-1 By: Shapiro S.B. No. 1067
1-2 (In the Senate - Filed March 1, 2007; March 14, 2007, read
1-3 first time and referred to Committee on Education; April 2, 2007,
1-4 reported adversely, with favorable Committee Substitute by the
1-5 following vote: Yeas 8, Nays 0; April 2, 2007, sent to printer.)

1-6 COMMITTEE SUBSTITUTE FOR S.B. No. 1067 By: Shapiro

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the placement by public schools of students who are
1-10 registered sex offenders and the notification requirements
1-11 concerning certain offenses committed by students.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 37, Education Code, is amended by adding
1-14 Subchapter I to read as follows:

1-15 SUBCHAPTER I. PLACEMENT OF REGISTERED SEX OFFENDERS

1-16 Sec. 37.301. DEFINITION. In this subchapter, "board of
1-17 trustees" includes the board's designee.

1-18 Sec. 37.302. APPLICABILITY. This subchapter:

1-19 (1) applies to a student who is required to register as
1-20 a sex offender under Chapter 62, Code of Criminal Procedure; and

1-21 (2) does not apply to a student who is no longer
1-22 required to register as a sex offender under Chapter 62, Code of
1-23 Criminal Procedure, including a student who receives an exemption
1-24 from registration under Subchapter H, Chapter 62, Code of Criminal
1-25 Procedure, or a student who receives an early termination of the
1-26 obligation to register under Subchapter I, Chapter 62, Code of
1-27 Criminal Procedure.

1-28 Sec. 37.303. REMOVAL OF REGISTERED SEX OFFENDER FROM
1-29 REGULAR CLASSROOM. Notwithstanding any provision of Subchapter A,
1-30 on receiving notice under Article 15.27, Code of Criminal
1-31 Procedure, or Chapter 62, Code of Criminal Procedure, that a
1-32 student is required to register as a sex offender under that
1-33 chapter, a school district shall remove the student from the
1-34 regular classroom and determine the appropriate placement of the
1-35 student in the manner provided by this subchapter.

1-36 Sec. 37.304. PLACEMENT OF REGISTERED SEX OFFENDER WHO IS
1-37 UNDER COURT SUPERVISION. (a) A school district shall place a
1-38 student to whom this subchapter applies and who is under any form of
1-39 court supervision, including probation, community supervision, or
1-40 parole, in the appropriate alternative education program as
1-41 provided by Section 37.309 for at least one semester.

1-42 (b) If a student transfers to another school district during
1-43 the student's mandatory placement in an alternative education
1-44 program under Subsection (a), the district to which the student
1-45 transfers may:

1-46 (1) require the student to complete an additional
1-47 semester in the appropriate alternative education program without
1-48 conducting a review of the student's placement for that semester
1-49 under Section 37.306; or

1-50 (2) count any time spent by the student in an
1-51 alternative education program in the district from which the
1-52 student transfers toward the mandatory placement requirement under
1-53 Subsection (a).

1-54 Sec. 37.305. PLACEMENT OF REGISTERED SEX OFFENDER WHO IS
1-55 NOT UNDER COURT SUPERVISION. A school district may place a student
1-56 to whom this subchapter applies and who is not under any form of
1-57 court supervision in the appropriate alternative education program
1-58 as provided by Section 37.309 for one semester or in the regular
1-59 classroom. The district may not place the student in the regular
1-60 classroom if the district board of trustees determines that the
1-61 student's presence in the regular classroom:

1-62 (1) threatens the safety of other students or
1-63 teachers;

2-1 (2) will be detrimental to the educational process; or
2-2 (3) is not in the best interests of the district's
2-3 students.

2-4 Sec. 37.306. REVIEW OF PLACEMENT IN ALTERNATIVE EDUCATION
2-5 PROGRAM. (a) At the end of the first semester of a student's
2-6 placement in an alternative education program under Section 37.304
2-7 or 37.305, the school district board of trustees shall convene a
2-8 committee to review the student's placement in the alternative
2-9 education program. The committee must be composed of:

2-10 (1) a classroom teacher from the campus to which the
2-11 student would be assigned were the student not placed in an
2-12 alternative education program;

2-13 (2) the student's parole or probation officer or, in
2-14 the case of a student who does not have a parole or probation
2-15 officer, a representative of the local juvenile probation
2-16 department;

2-17 (3) an instructor from the alternative education
2-18 program to which the student is assigned;

2-19 (4) a school district designee selected by the board
2-20 of trustees; and

2-21 (5) a counselor employed by the school district.

2-22 (b) The committee by majority vote shall determine and
2-23 recommend to the school district board of trustees whether the
2-24 student should be returned to the regular classroom or remain in the
2-25 alternative education program.

2-26 (c) If the committee recommends that the student be returned
2-27 to the regular classroom, the board of trustees shall return the
2-28 student to the regular classroom unless the board determines that
2-29 the student's presence in the regular classroom:

2-30 (1) threatens the safety of other students or
2-31 teachers;

2-32 (2) will be detrimental to the educational process; or

2-33 (3) is not in the best interests of the district's
2-34 students.

2-35 (d) If the committee recommends that the student remain in
2-36 the alternative education program, the board of trustees shall
2-37 continue the student's placement in the alternative education
2-38 program unless the board determines that the student's presence in
2-39 the regular classroom:

2-40 (1) does not threaten the safety of other students or
2-41 teachers;

2-42 (2) will not be detrimental to the educational
2-43 process; and

2-44 (3) is not contrary to the best interests of the
2-45 district's students.

2-46 (e) If, after receiving a recommendation under Subsection
2-47 (b), the school district board of trustees determines that the
2-48 student should remain in an alternative education program, the
2-49 board shall before the beginning of each school year convene the
2-50 committee described by Subsection (a) to review, in the manner
2-51 provided by Subsections (b), (c), and (d), the student's placement
2-52 in an alternative education program.

2-53 Sec. 37.307. PLACEMENT AND REVIEW OF STUDENT WITH
2-54 DISABILITY. (a) The placement under this subchapter of a student
2-55 with a disability who receives special education services must be
2-56 made in compliance with the Individuals with Disabilities Education
2-57 Act (20 U.S.C. Section 1400 et seq.).

2-58 (b) The review under Section 37.306 of the placement of a
2-59 student with a disability who receives special education services
2-60 may be made only by a duly constituted admission, review, and
2-61 dismissal committee. The admission, review, and dismissal
2-62 committee may request that the board of trustees convene a
2-63 committee described by Section 37.306(a) to assist the admission,
2-64 review, and dismissal committee in conducting the review.

2-65 Sec. 37.308. TRANSFER OF REGISTERED SEX OFFENDER. Except
2-66 as provided by Section 37.304(b), a school district shall determine
2-67 whether to place a student to whom this subchapter applies and who
2-68 transfers to the district in the appropriate alternative education
2-69 program as provided by Section 37.309 or in a regular classroom.

3-1 The school district shall follow the procedures specified under
 3-2 Section 37.306 in making the determination.

3-3 Sec. 37.309. PLACEMENT IN DISCIPLINARY ALTERNATIVE
 3-4 EDUCATION PROGRAM OR JUVENILE JUSTICE ALTERNATIVE EDUCATION
 3-5 PROGRAM. (a) Except as provided by Subsection (b), a school
 3-6 district shall place a student who is required by the board of
 3-7 trustees to attend an alternative education program under this
 3-8 subchapter in a disciplinary alternative education program.

3-9 (b) A school district shall place a student who is required
 3-10 by the board of trustees to attend an alternative education program
 3-11 under this subchapter in a juvenile justice alternative education
 3-12 program if:

3-13 (1) the memorandum of understanding entered into
 3-14 between the school district and juvenile board under Section
 3-15 37.011(k) provides for the placement of students to whom this
 3-16 subchapter applies in the juvenile justice alternative education
 3-17 program; or

3-18 (2) a court orders the placement of the student in a
 3-19 juvenile justice alternative education program.

3-20 Sec. 37.310. FUNDING FOR REGISTERED SEX OFFENDER PLACED IN
 3-21 JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM. A juvenile justice
 3-22 alternative education program is entitled to funding for a student
 3-23 who is placed in the program under this subchapter in the same
 3-24 manner as a juvenile justice alternative education program is
 3-25 entitled to funding under Section 37.012 for a student who is
 3-26 expelled and placed in a juvenile justice alternative education
 3-27 program for conduct for which expulsion is permitted but not
 3-28 required under Section 37.007.

3-29 Sec. 37.311. CONFERENCE. (a) A student or the student's
 3-30 parent or guardian may appeal a decision by a school district board
 3-31 of trustees to place the student in an alternative education
 3-32 program under this subchapter by requesting a conference among the
 3-33 board of trustees, the student's parent or guardian, and the
 3-34 student. The conference is limited to the factual question of
 3-35 whether the student is required to register as a sex offender under
 3-36 Chapter 62, Code of Criminal Procedure.

3-37 (b) If the school district board of trustees determines at
 3-38 the conclusion of the conference that the student is required to
 3-39 register as a sex offender under Chapter 62, Code of Criminal
 3-40 Procedure, the student is subject to placement in an alternative
 3-41 education program in the manner provided by this subchapter.

3-42 (c) A decision by the board of trustees under this section
 3-43 is final and may not be appealed.

3-44 Sec. 37.312. LIABILITY. This subchapter does not:

3-45 (1) waive any liability or immunity of a governmental
 3-46 entity or its officers or employees; or

3-47 (2) create any liability for or a cause of action
 3-48 against a governmental entity or its officers or employees.

3-49 Sec. 37.313. CONFLICTS OF LAW. To the extent of any
 3-50 conflict between a provision of this subchapter and a provision of
 3-51 Subchapter A, this subchapter prevails.

3-52 SECTION 2. Article 15.27, Code of Criminal Procedure, is
 3-53 amended by amending Subsections (b) and (c) and adding Subsections
 3-54 (a-1) and (j) to read as follows:

3-55 (a-1) The superintendent or a person designated by the
 3-56 superintendent in the school district may send to a school district
 3-57 employee having direct supervisory responsibility over the student
 3-58 the information contained in the confidential notice under
 3-59 Subsection (a) if the superintendent or the person designated by
 3-60 the superintendent determines that the employee needs the
 3-61 information for educational purposes or for the protection of the
 3-62 person informed or others.

3-63 (b) On conviction, deferred prosecution, or deferred
 3-64 adjudication or an adjudication of delinquent conduct of an
 3-65 individual enrolled as a student in a public primary or secondary
 3-66 school, for an offense or for any conduct listed in Subsection (h)
 3-67 of this article, the office of the prosecuting attorney acting in
 3-68 the case shall orally notify the superintendent or a person
 3-69 designated by the superintendent in the school district in which

4-1 the student is enrolled of the conviction or adjudication and
4-2 whether the student is required to register as a sex offender under
4-3 Chapter 62. Oral notification must be given within 24 hours of the
4-4 time of the order or on the next school day. The superintendent
4-5 shall, within 24 hours of receiving notification from the office of
4-6 the prosecuting attorney, [~~promptly~~] notify all instructional and
4-7 support personnel who have regular contact with the student.
4-8 Within seven days after the date the oral notice is given, the
4-9 office of the prosecuting attorney shall mail written notice, which
4-10 must contain a statement of the offense of which the individual is
4-11 convicted or on which the adjudication, deferred adjudication, or
4-12 deferred prosecution is grounded and a statement of whether the
4-13 student is required to register as a sex offender under Chapter 62.

4-14 (c) A parole, [~~or~~] probation, or community supervision
4-15 office, including a community supervision and corrections
4-16 department, a juvenile probation department, the paroles division
4-17 of the Texas Department of Criminal Justice, and the Texas Youth
4-18 Commission, having jurisdiction over a student described by
4-19 Subsection (a), (b), or (e) who transfers from a school or is
4-20 subsequently removed from a school and later returned to a school or
4-21 school district other than the one the student was enrolled in when
4-22 the arrest, referral to a juvenile court, conviction, or
4-23 adjudication occurred shall within 24 hours of learning of the
4-24 student's transfer or reenrollment notify the new school officials
4-25 of the arrest or referral in a manner similar to that provided for
4-26 by Subsection (a) or (e)(1), or of the conviction or delinquent
4-27 adjudication in a manner similar to that provided for by Subsection
4-28 (b) or (e)(2). The new school officials shall, within 24 hours of
4-29 receiving notification under this subsection, [~~promptly~~] notify
4-30 all instructional and support personnel who have regular contact
4-31 with the student.

4-32 (j) The notification provisions of this section concerning
4-33 a person who is required to register as a sex offender under Chapter
4-34 62 do not lessen the requirement of a person to provide any
4-35 additional notification prescribed by that chapter.

4-36 SECTION 3. Subsection (d), Article 15.27, Code of Criminal
4-37 Procedure, is repealed.

4-38 SECTION 4. Subchapter I, Chapter 37, Education Code, as
4-39 added by this Act, applies only to an offense committed on or after
4-40 the effective date of this Act. An offense committed before the
4-41 effective date of this Act is governed by the law in effect when the
4-42 offense was committed, and the former law is continued in effect for
4-43 that purpose. For purposes of this section, an offense was
4-44 committed before the effective date of this Act if any element of
4-45 the offense occurred before that date.

4-46 SECTION 5. This Act takes effect September 1, 2007.

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