

By: West, Royce

S.B. No. 1469

A BILL TO BE ENTITLED

AN ACT

relating to discipline and security in primary and secondary schools; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 37, Education Code, is reenacted and revised to read as follows:

CHAPTER 37. DISCIPLINE; SCHOOL SECURITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 37.001. DEFINITIONS. In this chapter:

(1) "Bullying" has the meaning assigned by Section 25.0341, as added by Chapter 920, Acts of the 79th Legislature, Regular Session, 2005.

(2) "Harassment" means threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student's physical or emotional health or safety.

(3) "Hit list" means a list of persons intentionally targeted to be physically harmed under circumstances in which a reasonable person would believe there is intent to cause harm.

(4) "School property" includes a public school campus or school grounds on which a public school is located and any grounds or buildings used by a school for an assembly or other

1 school-sponsored activity.

2 Sec. 37.002. STUDENT CODE OF CONDUCT. (a) The board of  
3 trustees of a school district shall, with the advice of its  
4 district-level committee established under Subchapter F, Chapter  
5 11, adopt a student code of conduct for the district. The student  
6 code of conduct must be posted and prominently displayed at each  
7 school campus or made available for review at the office of the  
8 campus principal. In addition to establishing standards for  
9 student conduct, the student code of conduct must:

10 (1) specify the circumstances, in accordance with this  
11 chapter, under which a student may be removed from a classroom,  
12 campus, or disciplinary alternative education program;

13 (2) specify conditions that authorize or require a  
14 principal or other appropriate administrator to transfer a student  
15 to a disciplinary alternative education program;

16 (3) outline conditions under which a student may be  
17 suspended as provided by Section 37.154 or expelled as provided by  
18 Section 37.158 or 37.159;

19 (4) identify the types of conduct that constitute  
20 serious misconduct for which a student may be expelled under  
21 Section 37.159(a)(4), with consideration of:

22 (A) campus and student safety;

23 (B) whether the misconduct was associated with  
24 gang activity;

25 (C) the severity of the student's conduct; and

26 (D) for students who may be placed in a juvenile  
27 justice alternative education program, the program's capacity and

1 the student's previous involvement with the juvenile justice  
2 system;

3 (5) specify that the following will be considered in a  
4 decision regarding suspension, removal to a disciplinary  
5 alternative education program, or expulsion:

6 (A) self-defense;

7 (B) intent or lack of intent at the time the  
8 student engaged in the conduct;

9 (C) a student's disciplinary history; or

10 (D) a disability that substantially impairs the  
11 student's capacity to appreciate the wrongfulness of the student's  
12 conduct;

13 (6) provide guidelines for setting the length of a  
14 term of:

15 (A) a removal under Section 37.156; and

16 (B) an expulsion under Section 37.158 or 37.159;

17 (7) address the notification of a student's parent or  
18 guardian of a violation of the student code of conduct committed by  
19 the student that results in suspension, removal to a disciplinary  
20 alternative education program, or expulsion;

21 (8) prohibit bullying, harassment, and making hit  
22 lists and ensure that district employees enforce those  
23 prohibitions; and

24 (9) provide, as appropriate for students at each grade  
25 level, methods, including options, for:

26 (A) managing students in the classroom and on  
27 school property;

1 (B) disciplining students; and

2 (C) preventing and intervening in student  
3 discipline problems, including bullying, harassment, and making  
4 hit lists.

5 (b) The methods adopted under Subsection (a)(9) must  
6 provide that a student who is enrolled in a special education  
7 program under Subchapter A, Chapter 29, may not be disciplined for  
8 conduct prohibited in accordance with Subsection (a)(8) until an  
9 admission, review, and dismissal committee meeting has been held to  
10 review the conduct.

11 (c) Once the student code of conduct is adopted, any change  
12 or amendment must be approved by the board of trustees.

13 (d) Each school year, a school district shall provide  
14 parents notice of and information regarding the student code of  
15 conduct.

16 (e) Except as provided by Section 37.158(b), this chapter  
17 does not require the student code of conduct to specify a minimum  
18 term of a removal under Section 37.156 or an expulsion under Section  
19 37.158 or 37.159.

20 Sec. 37.003. DISCIPLINE MANAGEMENT PROGRAMS; SEXUAL  
21 HARASSMENT POLICIES. (a) Each school district shall adopt and  
22 implement a discipline management program to be included in the  
23 district improvement plan under Section 11.252. The program must  
24 provide for prevention of and education concerning unwanted  
25 physical or verbal aggression, sexual harassment, and other forms  
26 of bullying in school, on school property, and in school vehicles.

27 (b) Each school district may develop and implement a sexual

1 harassment policy to be included in the district improvement plan  
2 under Section 11.252. The policy must include notification to the  
3 parents of each of the students involved in an incident of sexual  
4 harassment at school, on school property, or in a school vehicle.

5 Sec. 37.004. DATING VIOLENCE POLICIES. (a) Each school  
6 district shall adopt and implement a dating violence policy to be  
7 included in the district improvement plan under Section 11.252.

8 (b) A dating violence policy must:

9 (1) include a definition of dating violence that  
10 includes the intentional use of physical, sexual, verbal, or  
11 emotional abuse by a person to harm, threaten, intimidate, or  
12 control another person in a continuing relationship of a romantic  
13 or intimate nature; and

14 (2) address safety planning, enforcement of  
15 protective orders, and school-based alternatives to protective  
16 orders.

17 (c) The policy must include notification to the parents of  
18 each of the students involved in an incident of dating violence that  
19 occurs at school, on school property, or in a school vehicle.

20 Sec. 37.005. POLICIES CONCERNING PUBLIC SCHOOL  
21 FRATERNITIES, SORORITIES, AND SECRET SOCIETIES. (a) In this  
22 section, "public school fraternity, sorority, or secret society":

23 (1) means an organization composed wholly or in part  
24 of public school students that seeks to perpetuate itself by taking  
25 in additional public school students as members on the basis of the  
26 decision of its membership rather than on the free choice of a  
27 student who is otherwise qualified under district or campus rules

1 to join the organization; and

2 (2) does not include an agency for public welfare,  
3 including Boy Scouts, Hi-Y, Girl Reserves, DeMolay, Rainbow Girls,  
4 Pan-American Clubs, scholarship societies, or other similar  
5 educational organizations sponsored by state or national education  
6 authorities.

7 (b) The board of trustees of a school district shall adopt a  
8 policy prohibiting a person, while on school property, from acting  
9 as a member of, pledging to become a member of, joining, or  
10 soliciting another person to join or pledge to become a member of a  
11 public school fraternity, sorority, or secret society.

12 Sec. 37.006. POLICIES CONCERNING POSSESSION OF  
13 TELECOMMUNICATIONS DEVICES. (a) In this section,  
14 "telecommunications device" means a device that emits an audible  
15 signal, vibrates, displays a message, or otherwise summons or  
16 delivers a communication to the possessor.

17 (b) The board of trustees of a school district shall adopt a  
18 policy regarding student use or possession of a telecommunications  
19 device while on school property or while attending a  
20 school-sponsored or school-related activity on or off school  
21 property. The policy may establish disciplinary measures to be  
22 imposed for violation of any prohibition adopted under the policy.

23 Sec. 37.007. USE OF CONFINEMENT, RESTRAINT, SECLUSION, AND  
24 TIME-OUT. (a) In this section:

25 (1) "Restraint" means the use of physical force or a  
26 mechanical device to significantly restrict the free movement of  
27 all or a portion of a student's body.

1           (2) "Seclusion" means a behavior management technique  
2 in which a student is confined in a locked box, locked closet, or  
3 locked room that:

4                   (A) is designed solely to seclude a person; and

5                   (B) contains less than 50 square feet of space.

6           (3) "Time-out" means a behavior management technique  
7 in which, to provide a student with an opportunity to regain  
8 self-control, the student is separated from other students for a  
9 limited period in a setting:

10                   (A) that is not locked; and

11                   (B) from which the exit is not physically blocked  
12 by furniture, a closed door held shut from the outside, or another  
13 inanimate object.

14           (4) "Weapon" includes any weapon described under  
15 Section 37.158(a)(1).

16           (b) It is the policy of this state to treat with dignity and  
17 respect all students, including students with disabilities who  
18 receive special education services under Subchapter A, Chapter 29.  
19 A student with a disability who receives special education services  
20 under Subchapter A, Chapter 29, may not be confined in a locked box,  
21 locked closet, or other specially designed locked space as either a  
22 discipline management practice or a behavior management technique.

23           (c) A school district employee or volunteer or an  
24 independent contractor of a district may not place a student in  
25 seclusion. This subsection does not apply to the use of seclusion  
26 in a court-ordered placement, other than a placement in an  
27 educational program of a school district, or in a placement or

1 facility to which the following law, rules, or regulations apply:

2 (1) the Children's Health Act of 2000 (Pub. L. No.  
3 106-310) and any regulations adopted under that Act;

4 (2) 40 T.A.C. Sections 720.1001-720.1013; or

5 (3) 25 T.A.C. Section 412.308(e).

6 (d) The commissioner by rule shall adopt procedures for the  
7 use of restraint and time-out by a school district employee or  
8 volunteer or an independent contractor of a district in the case of  
9 a student with a disability receiving special education services  
10 under Subchapter A, Chapter 29. A procedure adopted under this  
11 subsection must:

12 (1) be consistent with:

13 (A) professionally accepted practices and  
14 standards of student discipline and techniques for behavior  
15 management; and

16 (B) relevant health and safety standards; and

17 (2) identify any discipline management practice or  
18 behavior management technique that requires a district employee or  
19 volunteer or an independent contractor of a district to be trained  
20 before using that practice or technique.

21 (e) In the case of a conflict between a rule adopted under  
22 Subsection (d) and a rule adopted under Subchapter A, Chapter 29,  
23 the rule adopted under Subsection (d) controls.

24 (f) This section does not prevent a student's locked,  
25 unattended confinement in an emergency situation while awaiting the  
26 arrival of law enforcement personnel if:

27 (1) the student possesses a weapon; and



1           (2) the confinement is necessary to prevent the  
2 student from causing bodily harm to the student or another person.

3           (g) This section and any rules or procedures adopted under  
4 this section do not apply to:

5           (1) a peace officer while performing law enforcement  
6 duties;

7           (2) juvenile probation, detention, or corrections  
8 personnel; or

9           (3) an educational services provider with whom a  
10 student is placed by a judicial authority, unless the services are  
11 provided in an educational program of a school district.

12           [Sections 37.008-37.050 reserved for expansion]

13                   SUBCHAPTER B. SCHOOL SECURITY

14           Sec. 37.051. APPLICABILITY OF CRIMINAL LAWS. The criminal  
15 laws of the state apply in the areas under the control and  
16 jurisdiction of the board of trustees of any school district in this  
17 state.

18           Sec. 37.052. SCHOOL DISTRICT PEACE OFFICERS AND SECURITY  
19 PERSONNEL. (a) The board of trustees of any school district may  
20 employ security personnel and may commission peace officers to  
21 carry out the provisions of this chapter. If a board of trustees  
22 authorizes a person employed as security personnel to carry a  
23 weapon, the person must be a commissioned peace officer. The  
24 jurisdiction of a peace officer or security personnel under this  
25 section shall be determined by the board of trustees and may include  
26 all territory in the boundaries of the school district and all  
27 property outside the boundaries of the district that is owned,

1 leased, or rented by or otherwise under the control of the school  
2 district and the board of trustees that employ the peace officer or  
3 security personnel.

4 (b) In a peace officer's jurisdiction, a peace officer  
5 commissioned under this section:

6 (1) has the powers, privileges, and immunities of  
7 peace officers;

8 (2) may enforce all laws, including municipal  
9 ordinances, county ordinances, and state laws; and

10 (3) may, in accordance with Chapter 52, Family Code,  
11 take a juvenile into custody.

12 (c) A school district peace officer may provide assistance  
13 to another law enforcement agency. A school district may contract  
14 with a political subdivision for the jurisdiction of a school  
15 district peace officer to include all territory in the jurisdiction  
16 of the political subdivision.

17 (d) A school district peace officer shall perform  
18 administrative and law enforcement duties for the school district  
19 as determined by the board of trustees of the school district.  
20 Those duties must include protecting:

21 (1) the safety and welfare of any person in the  
22 jurisdiction of the peace officer; and

23 (2) the property of the school district.

24 (e) The board of trustees of the district shall determine  
25 the scope of the on-duty and off-duty law enforcement activities of  
26 school district peace officers. A school district must authorize  
27 in writing any off-duty law enforcement activities performed by a

1 school district peace officer.

2 (f) The chief of police of the school district police  
3 department shall be accountable to the superintendent and shall  
4 report to the superintendent or the superintendent's designee.  
5 School district police officers shall be supervised by the chief of  
6 police of the school district or the chief of police's designee and  
7 must be licensed by the Commission on Law Enforcement Officer  
8 Standards and Education.

9 (g) A school district police department and the law  
10 enforcement agencies with which it has overlapping jurisdiction  
11 shall enter into a memorandum of understanding that outlines  
12 reasonable communication and coordination efforts between the  
13 department and the agencies.

14 (h) A peace officer assigned to duty and commissioned under  
15 this section shall take and file the oath required of peace officers  
16 and shall execute and file a bond in the sum of \$1,000, payable to  
17 the board of trustees, with two or more sureties, conditioned that  
18 the peace officer will fairly, impartially, and faithfully perform  
19 all the duties that may be required of the peace officer by law. The  
20 bond may be sued on in the name of any person injured until the whole  
21 amount of the bond is recovered. Any peace officer commissioned  
22 under this section must meet all minimum standards for peace  
23 officers established by the Commission on Law Enforcement Officer  
24 Standards and Education.

25 Sec. 37.053. RULES. (a) The board of trustees of a school  
26 district may adopt rules for the safety and welfare of students,  
27 employees, and property and other rules it considers necessary to

1 carry out the provisions of this chapter and the governance of the  
2 district, including rules providing for the operation and parking  
3 of vehicles on school property. The board may adopt and charge a  
4 reasonable fee for parking and for providing traffic control.

5 (b) A law or ordinance regulating traffic on a public  
6 highway or street applies to the operation of a vehicle on school  
7 property, except as modified by this subchapter.

8 Sec. 37.054. ENFORCEMENT OF RULES. Notwithstanding any  
9 other provision of this chapter, the board of trustees of a school  
10 district may authorize any officer commissioned by the board to  
11 enforce rules adopted by the board. This chapter is not intended to  
12 restrict the authority of each district to adopt and enforce  
13 appropriate rules for the orderly conduct of the district in  
14 carrying out its purposes and objectives or the right of separate  
15 jurisdiction relating to the conduct of its students and personnel.

16 Sec. 37.055. VEHICLE IDENTIFICATION INSIGNIA. The board  
17 of trustees of a school district may provide for the issuance and  
18 use of suitable vehicle identification insignia. The board may bar  
19 or suspend a person from driving or parking a vehicle on any school  
20 property as a result of the person's violation of any rule adopted  
21 by the board or of this chapter. Reinstatement of the privileges  
22 may be permitted and a reasonable fee assessed.

23 Sec. 37.056. UNAUTHORIZED PERSONS ON SCHOOL PROPERTY. The  
24 board of trustees of a school district or its authorized  
25 representative may refuse to allow a person without legitimate  
26 business to enter on property under the board's control and may  
27 eject any undesirable person from the property on the person's

1 refusal to leave peaceably on request. Identification may be  
2 required of any person on the property.

3 Sec. 37.057. MULTHAZARD EMERGENCY OPERATIONS PLAN;  
4 SECURITY AUDIT. (a) Each school district shall adopt and  
5 implement a multihazard emergency operations plan for use in  
6 district schools. The plan must address mitigation, preparedness,  
7 response, and recovery as defined by the commissioner in  
8 conjunction with the governor's office of homeland security. The  
9 plan must provide for:

10 (1) district employee training in responding to an  
11 emergency;

12 (2) mandatory school drills to prepare district  
13 students and employees for responding to an emergency;

14 (3) measures to ensure coordination with local  
15 emergency management agencies, law enforcement, and fire  
16 departments in the event of an emergency; and

17 (4) the implementation of a security audit as required  
18 by Subsection (b).

19 (b) At least once every three years, a school district shall  
20 conduct a security audit of the district's facilities. To the  
21 extent possible, a district shall follow security audit procedures  
22 developed by the Texas School Safety Center or a comparable public  
23 or private entity.

24 (c) A school district shall report the results of the  
25 security audit conducted under Subsection (b) to the district's  
26 board of trustees.

27 [Sections 37.058-37.100 reserved for expansion]

1                   SUBCHAPTER C. CRIMINAL OFFENSES

2           Sec. 37.101. HAZING. (a) In this section:

3                   (1) "Educational institution" includes a public or  
4 private high school.

5                   (2) "Hazing" means any intentional, knowing, or  
6 reckless act, occurring on or off the campus of an educational  
7 institution, by one person alone or acting with others, directed  
8 against a student, that endangers the mental or physical health or  
9 safety of a student for the purpose of pledging, being initiated  
10 into, affiliating with, holding office in, or maintaining  
11 membership in an organization. The term includes:

12                   (A) any type of physical brutality, such as  
13 whipping, beating, striking, branding, electronic shocking,  
14 placing of a harmful substance on the body, or similar activity;

15                   (B) any type of physical activity, such as sleep  
16 deprivation, exposure to the elements, confinement in a small  
17 space, calisthenics, or other activity that subjects the student to  
18 an unreasonable risk of harm or that adversely affects the mental or  
19 physical health or safety of the student;

20                   (C) any activity involving consumption of a food,  
21 liquid, alcoholic beverage, liquor, drug, or other substance that  
22 subjects the student to an unreasonable risk of harm or that  
23 adversely affects the mental or physical health or safety of the  
24 student;

25                   (D) any activity that intimidates or threatens  
26 the student with ostracism, that subjects the student to extreme  
27 mental stress, shame, or humiliation, that adversely affects the

1 mental health or dignity of the student or discourages the student  
2 from entering or remaining registered in an educational  
3 institution, or that may reasonably be expected to cause a student  
4 to leave the organization or the institution rather than submit to  
5 the acts described in this subdivision; and

6 (E) any activity that induces, causes, or  
7 requires the student to perform a duty or task that involves a  
8 violation of the Penal Code.

9 (3) "Organization" means a fraternity, sorority,  
10 association, corporation, order, society, corps, club, or service,  
11 social, or similar group, whose members are primarily students.

12 (4) "Pledge" means any person who has been accepted  
13 by, is considering an offer of membership from, or is in the process  
14 of qualifying for membership in an organization.

15 (5) "Pledging" means any action or activity related to  
16 becoming a member of an organization.

17 (6) "Student" means any person who:

18 (A) is registered in or in attendance at an  
19 educational institution;

20 (B) has been accepted for admission at the  
21 educational institution where the hazing incident occurs; or

22 (C) intends to attend an educational institution  
23 during any of its regular sessions after a period of scheduled  
24 vacation.

25 (b) A person commits an offense if the person:

26 (1) engages in hazing;

27 (2) solicits, encourages, directs, aids, or attempts

1 to aid another in engaging in hazing;

2 (3) recklessly permits hazing to occur; or

3 (4) has firsthand knowledge of the planning of a  
4 specific hazing incident involving a student in an educational  
5 institution, or has firsthand knowledge that a specific hazing  
6 incident has occurred, and knowingly fails to report that knowledge  
7 in writing to the dean of students or other appropriate official of  
8 the institution.

9 (c) An offense under Subsection (b)(1), (2), or (3) that  
10 does not cause serious bodily injury to another is a Class B  
11 misdemeanor. An offense under Subsection (b)(1), (2), or (3) that  
12 causes serious bodily injury to another is a Class A misdemeanor.  
13 An offense under Subsection (b)(1), (2), or (3) that causes the  
14 death of another is a state jail felony. An offense under Subsection  
15 (b)(4) is a Class B misdemeanor.

16 (d) An organization commits an offense if the organization  
17 condones or encourages hazing or if an officer or any combination of  
18 members, pledges, or alumni of the organization commits or assists  
19 in the commission of hazing. An offense under this subsection is a  
20 misdemeanor punishable by:

21 (1) a fine of not less than \$5,000 nor more than  
22 \$10,000; or

23 (2) if the court finds the offense caused personal  
24 injury, property damage, or other loss, a fine of not less than  
25 \$5,000 nor more than double the amount lost or expenses incurred  
26 because of the injury, damage, or loss.

27 (e) Except if an offense causes the death of a student, in



1 sentencing a person convicted of an offense under this section, the  
2 court may require the person to perform community service, subject  
3 to the same conditions imposed on a person placed on community  
4 supervision under Section 11, Article 42.12, Code of Criminal  
5 Procedure, for an appropriate period of time in lieu of confinement  
6 in county jail or in lieu of a part of the time the person is  
7 sentenced to confinement in county jail.

8 (f) It is not a defense to prosecution of an offense under  
9 this section that the person against whom the hazing was directed  
10 consented to or acquiesced in the hazing activity.

11 (g) In the prosecution of an offense under this section, the  
12 court may grant immunity from prosecution for the offense to each  
13 person who is subpoenaed to testify for the prosecution and who  
14 testifies for the prosecution. Any person reporting a specific  
15 hazing incident involving a student in an educational institution  
16 to the dean of students or other appropriate official of the  
17 institution is immune from civil or criminal liability that might  
18 otherwise be incurred or imposed as a result of the report.  
19 Immunity extends to participation in any judicial proceeding  
20 resulting from the report. A person reporting in bad faith or with  
21 malice is not protected by this subsection.

22 (h) A doctor or other medical practitioner who treats a  
23 student who may have been subjected to hazing activities and  
24 reports the suspected hazing activities is immune from civil or  
25 other liability that might otherwise be imposed or incurred as a  
26 result of the report, unless the report is made in bad faith or with  
27 malice.

1        (i) This section does not affect or repeal any penal law of  
2 this state. This section does not limit or affect the right of an  
3 educational institution to enforce its own penalties against  
4 hazing.

5        Sec. 37.102. DISRUPTION OF CLASSES. (a) In this section,  
6 "disrupting the conduct of classes or other school activities"  
7 includes:

8            (1) using abusive, indecent, profane, or vulgar  
9 language of a nature that is likely to incite an immediate breach of  
10 the peace;

11           (2) making an offensive gesture or display of a nature  
12 that is likely to incite an immediate breach of the peace;

13           (3) creating a noxious and unreasonable odor by  
14 chemical means;

15           (4) abusing or threatening a person in an obviously  
16 offensive manner;

17           (5) making unreasonable noise;

18           (6) fighting with another person;

19           (7) exposing a person's anus or genitals and being  
20 reckless about whether another person may be present who will be  
21 offended or alarmed by the exposure; or

22           (8) for a lewd or unlawful purpose, looking into an  
23 area such as a restroom, shower stall, or changing or dressing room  
24 that is designed to provide privacy to a person using the area.

25        (b) A person commits an offense if the person, on school  
26 property or on public property within 300 feet of school property,  
27 alone or in concert with others, intentionally disrupts the conduct

1 of classes or other school activities.

2 (c) An offense under this section is a Class C misdemeanor.

3 Sec. 37.103. DISRUPTIVE ACTIVITIES. (a) A person commits  
4 an offense if the person, alone or in concert with others,  
5 intentionally engages in disruptive activity on the campus or  
6 property of any private or public school.

7 (b) For purposes of this section, disruptive activity is:

8 (1) obstructing or restraining the passage of persons  
9 in an exit, entrance, or hallway of a building without the  
10 authorization of the administration of the school;

11 (2) seizing control of a building or portion of a  
12 building to interfere with an administrative, educational,  
13 research, or other authorized activity;

14 (3) preventing or attempting to prevent by force or  
15 violence or the threat of force or violence a lawful assembly  
16 authorized by the school administration so that a person attempting  
17 to participate in the assembly is unable to participate due to the  
18 use of force or violence or due to a reasonable fear that force or  
19 violence is likely to occur;

20 (4) disrupting by force or violence or the threat of  
21 force or violence a lawful assembly in progress; or

22 (5) obstructing or restraining the passage of a person  
23 at an exit or entrance to the campus or property or preventing or  
24 attempting to prevent by force or violence or by threats of force or  
25 violence the ingress or egress of a person to or from the property  
26 or campus without the authorization of the administration of the  
27 school.

1 (c) An offense under this section is a Class B misdemeanor.

2 (d) Any person who is convicted for a third time of  
3 violating this section is ineligible to attend any institution of  
4 higher education receiving funds from this state before the second  
5 anniversary of the third conviction.

6 (e) This section may not be construed to infringe on any  
7 right of free speech or expression guaranteed by the constitution  
8 of the United States or of this state.

9 Sec. 37.104. TRESPASS ON SCHOOL GROUNDS. (a) An  
10 unauthorized person who trespasses on school district grounds  
11 commits an offense.

12 (b) An offense under this section is a Class C misdemeanor.

13 Sec. 37.105. EXHIBITION OF FIREARMS. (a) A person commits  
14 an offense if the person, by exhibiting, using, or threatening to  
15 exhibit or use a firearm, interferes with the normal use of a  
16 building or portion of a campus or of a school bus being used to  
17 transport children to or from school-sponsored activities of a  
18 private or public school.

19 (b) An offense under this section is a third degree felony.

20 Sec. 37.106. DISRUPTION OF TRANSPORTATION. (a) Except as  
21 provided by Section 37.105, a person commits an offense if the  
22 person intentionally disrupts, prevents, or interferes with the  
23 lawful transportation of children to or from school or an activity  
24 sponsored by a school in a vehicle owned or operated by a county or  
25 school district.

26 (b) An offense under this section is a Class C misdemeanor.

27 Sec. 37.107. POSSESSION OF INTOXICANTS ON PUBLIC SCHOOL

1 GROUNDS. (a) A person commits an offense if the person possesses  
2 an intoxicating beverage for consumption, sale, or distribution  
3 while:

4 (1) on the grounds or in a building of a public school;  
5 or

6 (2) entering or inside any enclosure, field, or  
7 stadium where an athletic event sponsored or participated in by a  
8 public school is being held.

9 (b) An officer who sees a person violating this section  
10 shall immediately seize the intoxicating beverage and, within a  
11 reasonable time, deliver it to the county or district attorney to be  
12 held as evidence until the trial of the accused possessor.

13 (c) An offense under this section is a Class C misdemeanor.

14 [Sections 37.108-37.150 reserved for expansion]

15 SUBCHAPTER D. BEHAVIOR MANAGEMENT

16 Sec. 37.151. REMOVAL BY TEACHER. (a) A teacher may  
17 temporarily send a student to the principal's office to maintain  
18 effective discipline in the classroom. The principal shall respond  
19 by employing appropriate discipline management techniques  
20 consistent with the student code of conduct adopted under Section  
21 37.002.

22 (b) A teacher may formally remove from class a student:

23 (1) who has been documented by the teacher to  
24 repeatedly interfere with the teacher's ability to communicate  
25 effectively with the students in the class or with the ability of  
26 the student's classmates to learn; or

27 (2) whose behavior the teacher determines is so

1 unruly, disruptive, or abusive that it seriously interferes with  
2 the teacher's ability to communicate effectively with the students  
3 in the class or with the ability of the student's classmates to  
4 learn.

5 (c) If a teacher formally removes a student from class under  
6 Subsection (b), the principal may place the student into another  
7 appropriate classroom, suspend the student as provided by Section  
8 37.154, or place the student in a disciplinary alternative  
9 education program as provided by Section 37.156. The principal may  
10 not return the student to that teacher's class without the teacher's  
11 consent unless the committee established under Section 37.152  
12 determines that such placement is the best or only alternative  
13 available. The terms of the removal may prohibit the student from  
14 attending or participating in a school-sponsored or school-related  
15 activity.

16 (d) A teacher shall formally remove from class and send to  
17 the principal for placement in a disciplinary alternative education  
18 program or for expulsion, as appropriate, a student who engages in  
19 conduct described under Section 37.156, 37.158, or 37.159. The  
20 student may not be returned to that teacher's class without the  
21 teacher's consent unless the committee established under Section  
22 37.152 determines that such placement is the best or only  
23 alternative available.

24 (e) If a student has engaged in the elements of any offense  
25 listed in Section 37.158(a)(5) or 37.164(a)(1) against a teacher,  
26 the student may not be returned to the teacher's class without the  
27 teacher's consent. The teacher may not be coerced to consent.

1       (f) Removal of a student under this section for a formal  
2 reason may not be considered as a factor in an evaluation of a  
3 teacher's performance.

4       Sec. 37.152. PLACEMENT REVIEW COMMITTEE. (a) Each school  
5 shall establish a three-member committee to determine placement of  
6 a student when a teacher refuses the return of a student to the  
7 teacher's class and to make recommendations to the district  
8 regarding readmission of expelled students. Members shall be  
9 appointed as follows:

10           (1) the campus faculty shall choose two teachers to  
11 serve as members and one teacher to serve as an alternate member;  
12 and

13           (2) the principal shall choose one member from the  
14 professional staff of a campus.

15       (b) The teacher refusing to readmit the student may not  
16 serve on the committee.

17       (c) The committee's placement determination regarding a  
18 student with a disability who receives special education services  
19 under Subchapter A, Chapter 29, is subject to the requirements of  
20 the Individuals with Disabilities Education Act (20 U.S.C. Section  
21 1400 et seq.) and federal regulations, state statutes, and agency  
22 requirements necessary to carry out federal law or regulations or  
23 state law relating to special education.

24       Sec. 37.153. PLACEMENT OF STUDENTS WITH DISABILITIES. (a)  
25 The placement of a student with a disability who receives special  
26 education services under Subchapter A, Chapter 29, may be made only  
27 by a duly constituted admission, review, and dismissal committee.

1       (b) Any disciplinary action regarding a student with a  
2 disability who receives special education services that would  
3 constitute a change in placement under federal law may be taken only  
4 after the student's admission, review, and dismissal committee  
5 conducts a manifestation determination review under 20 U.S.C.  
6 Section 1415(k)(1). Any disciplinary action regarding the student  
7 shall be determined in accordance with federal law and regulations,  
8 including laws or regulations requiring the provision of:

9               (1) functional behavioral assessments;

10              (2) positive behavioral interventions, strategies,  
11 and supports;

12              (3) behavioral intervention plans; and

13              (4) the manifestation determination review.

14       (c) A student with a disability who receives special  
15 education services may not be placed in alternative education  
16 programs solely for educational purposes.

17       (d) A teacher in a disciplinary alternative education  
18 program under Subchapter E who has a special education assignment  
19 must hold an appropriate certificate or permit for that assignment.

20       (e) Notwithstanding any other provision of this chapter, in  
21 a county with a juvenile justice alternative education program  
22 established under Section 37.251, the expulsion under a provision  
23 of Section 37.159 of a student with a disability who receives  
24 special education services must occur in accordance with this  
25 subsection and Subsections (f) and (g). The school district from  
26 which the student was expelled shall, in accordance with applicable  
27 federal law, provide the administrator of the juvenile justice



1 alternative education program or the administrator's designee with  
2 reasonable notice of the meeting of the student's admission,  
3 review, and dismissal committee to discuss the student's expulsion.  
4 A representative of the juvenile justice alternative education  
5 program may participate in the meeting to the extent that the  
6 meeting relates to the student's placement in the program.

7 (f) If, after placement of a student in a juvenile justice  
8 alternative education program under Subsection (e), the  
9 administrator of the program or the administrator's designee has  
10 concerns that the student's education or behavioral needs cannot be  
11 met in the program, the administrator or designee shall immediately  
12 provide written notice of those concerns to the school district  
13 from which the student was expelled. The student's admission,  
14 review, and dismissal committee shall meet to consider the  
15 placement of the student in the program. The district shall, in  
16 accordance with applicable federal law, provide the administrator  
17 or designee with reasonable notice of the meeting, and a  
18 representative of the program may participate in the meeting to the  
19 extent that the meeting relates to the student's continued  
20 placement in the program.

21 (g) A school district remains responsible for the provision  
22 of special education services to a student with a disability who is  
23 expelled to a juvenile justice alternative education program as  
24 provided by Subsections (e) and (f).

25 Sec. 37.154. SUSPENSION. (a) The principal or other  
26 appropriate administrator may suspend a student who engages in  
27 conduct identified in the student code of conduct adopted under

1 Section 37.002 as conduct for which a student may be suspended. A  
2 student may be assigned to in-school or out-of-school suspension.

3 (b) An out-of-school suspension under this section may not  
4 exceed:

5 (1) three school days per suspension; or

6 (2) more than 10 cumulative school days per school  
7 year.

8 (c) A student suspended under this section shall receive  
9 credit for school work completed during the suspension period.

10 (d) At least every 30 days, a principal shall provide to a  
11 student a review of the status, including the academic status, of a  
12 student assigned to in-school suspension.

13 Sec. 37.155. PLACEMENT OF STUDENTS COMMITTING SEXUAL  
14 ASSAULT AGAINST ANOTHER STUDENT. (a) As provided by Section  
15 25.0341(b)(2), as added by Chapter 997, Acts of the 79th  
16 Legislature, Regular Session, 2005, a student shall be removed from  
17 class and placed in a disciplinary alternative education program  
18 operated under Subchapter E or a juvenile justice alternative  
19 education program operated under Section 37.251.

20 (b) A limitation imposed by this chapter on the length of a  
21 placement in a disciplinary alternative education program or a  
22 juvenile justice alternative education program does not apply to a  
23 placement under this section.

24 Sec. 37.156. PLACEMENT IN DISCIPLINARY ALTERNATIVE  
25 EDUCATION PROGRAM. (a) A student shall be removed from class and  
26 placed in a disciplinary alternative education program under  
27 Subchapter E if the student:

1           (1) engages in conduct involving a public school that  
2 contains the elements of the offense of false alarm or report under  
3 Section 42.06, Penal Code, or terroristic threat under Section  
4 22.07, Penal Code; or

5           (2) commits the following on or within 300 feet of  
6 school property, as measured from any point on the school's real  
7 property boundary line, or while attending a school-sponsored or  
8 school-related activity on or off of school property:

9                   (A) engages in conduct punishable as a felony;

10                   (B) engages in conduct that contains the elements  
11 of the offense of assault under Section 22.01(a)(1), Penal Code;

12                   (C) sells, gives, or delivers to another person  
13 or possesses, uses, or is under the influence of:

14                           (i) marihuana or a controlled substance, as  
15 defined by Chapter 481, Health and Safety Code, or by 21 U.S.C.  
16 Section 801 et seq.; or

17                           (ii) a dangerous drug, as defined by  
18 Chapter 483, Health and Safety Code;

19                   (D) sells, gives, or delivers to another person  
20 an alcoholic beverage, as defined by Section 1.04, Alcoholic  
21 Beverage Code, commits a serious act or offense while under the  
22 influence of alcohol, or possesses, uses, or is under the influence  
23 of an alcoholic beverage;

24                   (E) engages in conduct that contains the elements  
25 of an offense relating to an abusable volatile chemical under  
26 Sections 485.031 through 485.033, Health and Safety Code;

27                   (F) engages in conduct that contains the elements

1 of the offense of public lewdness under Section 21.07, Penal Code,  
2 or indecent exposure under Section 21.08, Penal Code;

3 (G) engages in conduct that contains the elements  
4 of the offense of soliciting membership in a criminal street gang  
5 under Section 71.022, Penal Code; or

6 (H) engages in conduct that constitutes criminal  
7 street gang activity, as described by Subsection (b), and as  
8 determined on the basis of a reasonable person's belief that the  
9 conduct is a manifestation of membership in a criminal street gang.

10 (b) For purposes of Subsection (a)(2)(H), criminal street  
11 gang activity means conduct engaged in by three or more persons who:

12 (1) have a common identifying sign or symbol or an  
13 identifiable leadership;

14 (2) continuously or regularly associate in the  
15 commission of criminal activities and associate with known criminal  
16 street gang members; and

17 (3) use criminal street gang dress, hand signals,  
18 tattoos, or symbols.

19 (c) A student shall be removed from class and placed in a  
20 disciplinary alternative education program under Subchapter E if  
21 the student engages in conduct on or off of school property that  
22 contains the elements of the offense of retaliation under Section  
23 36.06, Penal Code, against any school employee.

24 (d) In addition to Subsections (a) and (c), a student may be  
25 removed from class and placed in a disciplinary alternative  
26 education program under Subchapter E on the basis of conduct  
27 occurring off campus and while the student is not in attendance at a

1 school-sponsored or school-related activity if:

2 (1) the superintendent or the superintendent's  
3 designee has a reasonable belief that the student has engaged in  
4 conduct defined as a felony offense by the Penal Code, other than a  
5 felony offense requiring a court placement under Section 37.164;  
6 and

7 (2) the continued presence of the student in the  
8 regular classroom threatens the safety of other students or  
9 teachers or will be detrimental to the educational process.

10 (e) For purposes of Subsection (d), in determining whether  
11 there is a reasonable belief that a student has engaged in conduct  
12 defined as a felony offense by the Penal Code, the superintendent or  
13 the superintendent's designee may consider all available  
14 information, including the information furnished to the  
15 superintendent under Section 37.302.

16 (f) Subject to Section 37.158(b), a student who is younger  
17 than 10 years of age shall be removed from class and placed in a  
18 disciplinary alternative education program under Subchapter E if  
19 the student engages in conduct described by Section 37.158 or  
20 37.159. An elementary school student may not be placed in a  
21 disciplinary alternative education program with any other student  
22 who is not an elementary school student.

23 (g) The terms of a placement under this section must  
24 prohibit the student from attending or participating in a  
25 school-sponsored or school-related activity.

26 (h) On receipt of notice under Section 37.302(f), the  
27 superintendent or the superintendent's designee shall review the

1 student's placement in the disciplinary alternative education  
2 program. The student may not be returned to the regular classroom  
3 pending the review. The superintendent or the superintendent's  
4 designee shall schedule a review of the student's placement with  
5 the student's parent or guardian not later than the third class day  
6 after the superintendent or superintendent's designee receives the  
7 notice under Section 37.302(f). After reviewing the notice and  
8 receiving information from the student's parent or guardian, the  
9 superintendent or the superintendent's designee may continue the  
10 student's placement in the disciplinary alternative education  
11 program if there is reason to believe that the presence of the  
12 student in the regular classroom threatens the safety of other  
13 students or teachers.

14 (i) The student or the student's parent or guardian may  
15 appeal the superintendent's decision under Subsection (h) to the  
16 board of trustees. The student may not be returned to the regular  
17 classroom pending the appeal. The board shall, at the next  
18 scheduled meeting, review the notice provided under Section  
19 37.302(f) and receive information from the student, the student's  
20 parent or guardian, and the superintendent or superintendent's  
21 designee and confirm or reverse the decision made under Subsection  
22 (h). The board shall make a record of the proceedings. If the board  
23 confirms the decision of the superintendent or superintendent's  
24 designee, the board shall inform the student and the student's  
25 parent or guardian of the right to appeal to the commissioner under  
26 Subsection (j).

27 (j) Notwithstanding Section 7.057(e), the decision of the

1 board of trustees under Subsection (i) may be appealed to the  
2 commissioner as provided by Sections 7.057(b), (c), and (d). The  
3 student may not be returned to the regular classroom pending the  
4 appeal.

5 (k) Subsections (h), (i), and (j) do not apply to placements  
6 made in accordance with Subsection (a).

7 (l) Notwithstanding any other provision of this code, other  
8 than Section 37.158(b)(2), a student who is younger than six years  
9 of age may not be removed from class and placed in a disciplinary  
10 alternative education program.

11 (m) Removal to a disciplinary alternative education program  
12 under Subsection (a) is not required if the student is expelled  
13 under Section 37.158 or 37.159 for the same conduct for which  
14 removal would be required.

15 (n) A principal or other appropriate administrator may, but  
16 is not required to, remove a student to a disciplinary alternative  
17 education program for off-campus conduct for which removal is  
18 required under this section if the principal or other appropriate  
19 administrator does not have knowledge of the conduct before the  
20 first anniversary of the date the conduct occurred.

21 (o) A student may be removed to a disciplinary alternative  
22 education program under this section only in accordance with the  
23 student code of conduct required under Section 37.002.

24 Sec. 37.157. CONFERENCE AND REVIEW FOR STUDENTS PLACED IN  
25 DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM. (a) Not later than  
26 the third class day after the day on which a student is removed from  
27 class by the teacher under Section 37.151(b) or (d) or by the school

1 principal or other appropriate administrator under Section  
2 37.002(a)(2) or 37.156, the principal or other appropriate  
3 administrator shall schedule a conference among the principal or  
4 other appropriate administrator, a parent or guardian of the  
5 student, the teacher removing the student from class, if any, and  
6 the student. At the conference, the student is entitled to written  
7 or oral notice of the reasons for the removal, an explanation of the  
8 basis for the removal, and an opportunity to respond to the reasons  
9 for the removal. The student may not be returned to the regular  
10 classroom pending the conference. Following the conference, and  
11 whether or not each requested person is in attendance after valid  
12 attempts to require the person's attendance, the principal may  
13 order the placement of the student for a period consistent with the  
14 student code of conduct.

15 (b) A student may appeal to the board of trustees or the  
16 board's designee a decision of the principal or other appropriate  
17 administrator. The student or the student's parent or guardian  
18 must submit a written request for appeal to the superintendent not  
19 later than the seventh school day after the date of receipt of the  
20 decision. The superintendent shall provide the student or the  
21 student's parent or guardian with written notice of the time, date,  
22 and location of the next regularly scheduled board meeting at which  
23 the board or the board's designee will review the decision. The  
24 decision of the board or the board's designee is final and may not  
25 be appealed.

26 (c) The board or the board's designee shall deliver to the  
27 student and the student's parent or guardian a copy of the notice



1 placing the student in a disciplinary alternative education program  
2 under Section 37.156.

3 (d) If the period of the placement of a student in the  
4 disciplinary alternative education program is inconsistent with  
5 the guidelines included in the student code of conduct under  
6 Section 37.002(a)(6), the notice of placement shall give reason for  
7 the inconsistency. The period of the placement may not exceed 180  
8 school days unless, after a review, the board of trustees or the  
9 board's designee determines that:

10 (1) the student is a threat to the safety of other  
11 students or to district employees; or

12 (2) extended placement is in the best interest of the  
13 student.

14 (e) If, during the term of a placement under this section, a  
15 student engages in additional conduct for which placement in a  
16 disciplinary alternative education program is required or  
17 permitted, additional proceedings may be conducted under this  
18 section regarding that conduct and the principal may enter an  
19 additional order as a result of those proceedings.

20 (f) A school district may terminate a student's placement in  
21 a disciplinary alternative education program at any time and return  
22 the student to the regular classroom or campus.

23 Sec. 37.158. MANDATORY EXPULSIONS. (a) A student shall be  
24 expelled from school if on or within 300 feet of school property, as  
25 measured from any point on the school's real property boundary  
26 line, or while attending a school-sponsored or school-related  
27 activity on or off of school property, the student:

- 1           (1) uses, exhibits, or possesses:  
2                   (A) a firearm as defined by Section 46.01(3),  
3 Penal Code;  
4                   (B) an illegal knife as defined by Section  
5 46.01(6), Penal Code;  
6                   (C) a club as defined by Section 46.01(1), Penal  
7 Code;  
8                   (D) a weapon listed as a prohibited weapon under  
9 Section 46.05, Penal Code; or  
10                  (E) a stun gun as defined by Section 38.14(a),  
11 Penal Code;  
12           (2) possesses a hazardous substance as described by  
13 Section 501.002(a), Health and Safety Code;  
14           (3) engages in conduct that contains the elements of a  
15 felony drug offense, except for a drug offense enhanced to a felony  
16 under Section 481.134, Health and Safety Code;  
17           (4) engages in conduct that contains the elements of  
18 the offense of possessing the components of an explosive under  
19 Section 46.09, Penal Code;  
20           (5) engages in conduct that contains the elements of  
21 the offense of assault under Section 22.01, Penal Code, against a  
22 school employee or volunteer; or  
23           (6) engages in conduct that contains the elements of  
24 any of the following offenses, or attempts under Section 15.01,  
25 Penal Code, or conspires under Section 15.02, Penal Code, to engage  
26 in conduct that contains the elements of any of the following  
27 offenses:

- 1                   (A) a felony offense under Title 5, Penal Code;  
2                   (B) the offense of arson under Section 28.02,  
3 Penal Code; or  
4                   (C) the offense of aggravated robbery under  
5 Section 29.03, Penal Code.

6           (b) In accordance with 20 U.S.C. Section 7151, a local  
7 educational agency, including a school district, home-rule school  
8 district, or open-enrollment charter school, shall expel a student  
9 who brings a firearm, as defined by 18 U.S.C. Section 921, to  
10 school. The student must be expelled from the student's regular  
11 campus for a period of at least one year, except that:

12                   (1) the superintendent or other chief administrative  
13 officer of the school district or of the other local educational  
14 agency, as defined by 20 U.S.C. Section 7801, may modify the length  
15 of the expulsion in the case of an individual student;

16                   (2) the district or other local educational agency  
17 shall provide educational services to an expelled student in a  
18 disciplinary alternative education program under Subchapter E if  
19 the student is younger than 10 years of age on the date of  
20 expulsion; and

21                   (3) the district or other local educational agency may  
22 provide educational services to an expelled student who is 10 years  
23 of age or older in a disciplinary alternative education program  
24 under Subchapter E.

25           (c) On receipt of notice under Section 37.162(c) or  
26 37.302(f), a school district shall immediately return the student  
27 to the student's campus or disciplinary alternative education

1 program as provided by Section 37.156.

2 Sec. 37.159. DISCRETIONARY EXPULSIONS. (a) A student may  
3 be expelled if the student:

4 (1) engages in conduct involving a public school that  
5 contains the elements of the offense of terroristic threat under  
6 Section 22.07, Penal Code, if the conduct is punishable as a  
7 misdemeanor under that section, or false alarm or report under  
8 Section 42.06, Penal Code;

9 (2) while on or within 300 feet of any school property,  
10 as measured from any point on the school's real property boundary  
11 line, or while attending a school-sponsored or school-related  
12 activity on or off of school property:

13 (A) sells, gives, delivers to another person,  
14 possesses, uses, or is under the influence of any amount of:

15 (i) marihuana or a controlled substance, as  
16 defined by Chapter 481, Health and Safety Code, or 21 U.S.C. Section  
17 801 et seq.;

18 (ii) a dangerous drug, as defined by  
19 Chapter 483, Health and Safety Code; or

20 (iii) an alcoholic beverage, as defined by  
21 Section 1.04, Alcoholic Beverage Code; or

22 (B) engages in conduct that contains the elements  
23 of:

24 (i) an offense relating to an abusable  
25 volatile chemical under Sections 485.031 through 485.033, Health  
26 and Safety Code; or

27 (ii) the offense of deadly conduct under

1 Section 22.05, Penal Code, if the conduct is punishable as a  
2 misdemeanor under that section;

3 (3) exhibits or possesses a legal knife, as defined in  
4 the district's student code of conduct, on a school campus or at a  
5 school-related activity; or

6 (4) while placed in a disciplinary alternative  
7 education program for disciplinary reasons, continues to engage in  
8 serious misconduct that violates the district's student code of  
9 conduct.

10 (b) A student may be expelled if on school property or at a  
11 school-related activity the student engages in conduct that  
12 contains the elements of the offense of criminal mischief under  
13 Section 28.03, Penal Code, if the conduct is punishable as a felony  
14 under that section. The student shall be referred to the authorized  
15 officer of the juvenile court regardless of whether the student is  
16 expelled.

17 (c) On receipt of notice under Section 37.162(c) or  
18 37.302(f), a school district shall immediately return the student  
19 to the student's campus or disciplinary alternative education  
20 program as provided by Section 37.156.

21 Sec. 37.160. LIMITATION ON EXPULSIONS. (a) Subject to  
22 Section 37.158(b), and notwithstanding any other provision of  
23 Section 37.158 or 37.159, a student who is younger than 10 years of  
24 age may not be expelled for engaging in conduct described by those  
25 sections.

26 (b) A student may not be expelled for conduct other than  
27 that specified under Section 37.158 or 37.159.

1       Sec. 37.161. HEARING AND REVIEW FOR EXPULSIONS. (a) Before  
2 a student may be expelled under Section 37.158 or 37.159, the board  
3 of trustees of the school district in which the student is enrolled  
4 or the board's designee shall provide the student a hearing at which  
5 the student is given appropriate due process as required by the  
6 federal constitution and which the student's parent or guardian is  
7 invited, in writing, to attend. At the hearing, the student is  
8 entitled to be represented by the student's parent or guardian or  
9 another adult who can provide guidance to the student and who is not  
10 an employee of the school district. If the school district makes a  
11 good-faith effort to inform the student and the student's parent or  
12 guardian of the time and place of the hearing, the district may hold  
13 the hearing regardless of whether the student, the student's parent  
14 or guardian, or another adult representing the student attends.

15       (b) If the decision to expel a student is made by the board's  
16 designee, the decision may be appealed to the board. The student or  
17 parent must submit a written request for appeal to the  
18 superintendent not later than the seventh school day after the date  
19 of receipt of the decision. The superintendent shall provide the  
20 student or parent with written notice of the time, date, and  
21 location of the next regularly scheduled board meeting at which the  
22 board will review the decision. The decision of the board may be  
23 appealed by trial de novo to a district court of the county in which  
24 the school district's central administrative office is located.

25       (c) The board or the board's designee shall deliver to the  
26 student and the student's parent or guardian a copy of the order  
27 expelling the student under Section 37.158 or 37.159.

1        (d) The period of an expulsion may not exceed 180 school  
2 days unless, after a review, the board of trustees or the board's  
3 designee determines that:

4            (1) the student is a threat to the safety of other  
5 students or to district employees; or

6            (2) extended placement is in the best interest of the  
7 student.

8        (e) If, during the term of an expulsion ordered under this  
9 section, a student engages in additional conduct for which  
10 expulsion is required or permitted, additional proceedings may be  
11 conducted under this section regarding that conduct and the  
12 principal or board of trustees or board designee, as appropriate,  
13 may enter an additional order as a result of those proceedings.

14        (f) Except as provided by Section 37.158(b), a school  
15 district may terminate a student's expulsion at any time and return  
16 the student to the regular classroom or campus.

17        Sec. 37.162. NOTIFICATION TO JUVENILE COURT AFTER  
18 EXPULSION. (a) A school district that expels a child shall provide  
19 notification of the expulsion to the juvenile court in the county in  
20 which the child resides. The board of trustees of the school  
21 district or a person designated by the board shall provide the  
22 notification required under this section to the authorized officer  
23 of the juvenile court not later than the second working day after  
24 the date of the expulsion hearing held under Section 37.161.

25        (b) Not later than the fifth working day after the date of  
26 receipt of an expulsion notice under this section, a preliminary  
27 investigation and determination shall be conducted as required by

1 Section 53.01, Family Code.

2 (c) Not later than the second working day after the date the  
3 determination is made, the office or official designated by the  
4 juvenile board shall notify the school district that expelled the  
5 child if:

6 (1) a determination was made under Section 53.01,  
7 Family Code, that the person referred to juvenile court was not a  
8 child within the meaning of Title 3, Family Code;

9 (2) a determination was made that no probable cause  
10 existed to believe the child engaged in delinquent conduct or  
11 conduct indicating a need for supervision;

12 (3) no deferred prosecution or formal court  
13 proceedings have been or will be initiated involving the child;

14 (4) the court or jury finds that the child did not  
15 engage in delinquent conduct or conduct indicating a need for  
16 supervision and the case has been dismissed with prejudice; or

17 (5) the child was adjudicated but no disposition was  
18 or will be ordered by the court.

19 (d) In any county where a juvenile justice alternative  
20 education program is operated, a student may not be expelled  
21 without written notification by the board of trustees of the school  
22 district or its designated agent to the juvenile board's designated  
23 representative. The notification shall be made not later than the  
24 second business day following the board's determination that the  
25 student is to be expelled. Failure to timely notify the designated  
26 representative of the juvenile board shall result in the child's  
27 duty to continue attending the school district's educational



1 program, which shall be provided to that child until such time as  
2 the notification to the juvenile board's designated representative  
3 is properly made.

4 Sec. 37.163. STUDENT WITHDRAWING FROM DISTRICT OR ENROLLING  
5 IN ANOTHER DISTRICT. (a) If a student withdraws from a school  
6 district before an order for placement in a disciplinary  
7 alternative education program is entered under Section 37.156 or an  
8 order for expulsion is entered under Section 37.158 or 37.159, the  
9 principal or board of trustees or board designee, as appropriate,  
10 may complete the proceedings and enter an order. If the student  
11 subsequently enrolls in the district during the same or subsequent  
12 school year, the district may enforce the order at that time except  
13 for any period of the placement or expulsion that has been served by  
14 the student on enrollment in another district that honored the  
15 order. If the principal, board, or board designee fails to enter an  
16 order after the student withdraws, the district in which the  
17 student subsequently enrolls may complete the proceedings and enter  
18 an order.

19 (b) If a school district takes disciplinary action against a  
20 student and the student subsequently enrolls in another district  
21 before the expiration of the period of disciplinary action or if the  
22 disciplinary action is pending, the district taking the  
23 disciplinary action shall provide to the district in which the  
24 student enrolls, at the same time academic and other records of the  
25 student are provided, a copy of the order of disciplinary action.

26 Sec. 37.164. COURT PLACEMENTS. (a) This section applies  
27 only to a student who, while the student is not on or within 300 feet

1 of school property, as measured from any point on the school's real  
2 property boundary line, and not attending a school-sponsored or  
3 school-related activity or event:

4 (1) engages in conduct that contains the elements of  
5 the offense of assault under Section 22.01, Penal Code, against a  
6 school employee or volunteer; or

7 (2) engages in conduct that contains the elements of  
8 any of the following offenses, or attempts under Section 15.01,  
9 Penal Code, or conspires under Section 15.02, Penal Code, to engage  
10 in conduct that contains the elements of any of the following  
11 offenses:

12 (A) a felony offense under Title 5, Penal Code;

13 (B) the offense of arson under Section 28.02,  
14 Penal Code; or

15 (C) the offense of aggravated robbery under  
16 Section 29.03, Penal Code.

17 (b) The juvenile court, juvenile board, or the appropriate  
18 criminal court, as applicable, shall require a student who is  
19 referred, arrested, or otherwise under the jurisdiction of the  
20 court or board as a result of engaging in conduct described by  
21 Subsection (a) to:

22 (1) in a county where a juvenile justice alternative  
23 education program is operated under Section 37.251, attend the  
24 juvenile justice alternative education program; or

25 (2) in a county that does not operate a juvenile  
26 justice alternative education program under Section 37.251, attend  
27 the juvenile justice alternative education program or educational

1 program provided for under Section 37.255.

2 Sec. 37.165. COURT INVOLVEMENT. (a) Unless the juvenile  
3 board for the county in which the school district's central  
4 administrative office is located has entered into a memorandum of  
5 understanding with the district's board of trustees concerning the  
6 juvenile probation department's role in supervising and providing  
7 other support services for students in disciplinary alternative  
8 education programs, a court may not order a student expelled under  
9 Section 37.158 or 37.159 to attend a regular classroom, a regular  
10 campus, or a school district disciplinary alternative education  
11 program as a condition of probation.

12 (b) Unless the juvenile board for the county in which the  
13 school district's central administrative office is located has  
14 entered into a memorandum of understanding as described by  
15 Subsection (a), if a court orders a student to attend a disciplinary  
16 alternative education program as a condition of probation once  
17 during a school year and the student is referred to juvenile court  
18 again during that school year, the juvenile court may not order the  
19 student to attend a disciplinary alternative education program in a  
20 district without the district's consent until the student has  
21 successfully completed any sentencing requirements the court  
22 imposes.

23 (c) Any placement in a disciplinary alternative education  
24 program by a court under this section must prohibit the student from  
25 attending or participating in school-sponsored or school-related  
26 activities.

27 (d) If a student is expelled under Section 37.158 or 37.159,

1 on the recommendation of the committee established under Section  
2 37.152 or on its own initiative, a school district may readmit the  
3 student while the student is completing any court disposition  
4 requirements the court imposes. After the student has successfully  
5 completed any court disposition requirements the court imposes,  
6 including conditions of a deferred prosecution ordered by the  
7 court, or such conditions required by the prosecutor or probation  
8 department, if the student meets the requirements for admission  
9 into the public schools established by this title, a district may  
10 not refuse to admit the student, but the district may place the  
11 student in the disciplinary alternative education program.  
12 Notwithstanding Section 37.151(d), the student may not be returned  
13 to the classroom of the teacher under whose supervision the offense  
14 occurred without that teacher's consent.

15 Sec. 37.166. EMERGENCY PLACEMENT OR EXPULSION. (a) This  
16 subchapter does not prevent the principal or the principal's  
17 designee from ordering the immediate placement of a student in a  
18 disciplinary alternative education program if the principal or the  
19 principal's designee reasonably believes the student's behavior is  
20 so unruly, disruptive, or abusive that it seriously interferes with  
21 a teacher's ability to communicate effectively with the students in  
22 a class, with the ability of the student's classmates to learn, or  
23 with the operation of school or a school-sponsored activity.

24 (b) This subchapter does not prevent the principal or the  
25 principal's designee from ordering the immediate expulsion of a  
26 student if the principal or the principal's designee reasonably  
27 believes that action is necessary to protect persons or property

1 from imminent harm.

2 (c) At the time of an emergency placement or expulsion, the  
3 student shall be given oral notice of the reason for the action.  
4 The reason must be a reason for which placement in a disciplinary  
5 alternative education program or expulsion may be made on a  
6 nonemergency basis. Within a reasonable time after the emergency  
7 placement or expulsion, but not later than the 10th day after the  
8 date of the placement or expulsion, the student shall be given the  
9 appropriate due process as required under Section 37.157 or 37.161.  
10 If the student subject to the emergency placement or expulsion is a  
11 student with disabilities who receives special education services,  
12 the emergency placement or expulsion is subject to federal law and  
13 regulations and must be consistent with the consequences that would  
14 apply under this subchapter to a student without a disability.

15 (d) A principal or principal's designee is not liable in  
16 civil damages for an emergency placement or expulsion made under  
17 this section.

18 Sec. 37.167. OPPORTUNITY TO COMPLETE COURSES DURING  
19 IN-SCHOOL SUSPENSION AND CERTAIN OTHER PLACEMENTS. (a) If a  
20 school district removes a student from the regular classroom and  
21 assigns the student to in-school suspension or another setting  
22 other than a disciplinary alternative education program, the  
23 district shall offer the student the opportunity to complete before  
24 the beginning of the next school year each course in which the  
25 student was enrolled at the time of the removal.

26 (b) The district may provide the opportunity to complete  
27 courses by any method available, including a correspondence course,

1 distance learning, or summer school.

2 Sec. 37.168. NOTICE TO NONCUSTODIAL PARENT. (a) A  
3 noncustodial parent may request in writing that a school district  
4 or school, for the remainder of the school year in which the request  
5 is received, provide that parent with a copy of any written  
6 notification relating to student misconduct under Section 37.156,  
7 37.158, or 37.159 that is generally provided by the district or  
8 school to a student's parent or guardian.

9 (b) A school district or school may not unreasonably deny a  
10 request authorized by Subsection (a).

11 (c) Notwithstanding any other provision of this section, a  
12 school district or school shall comply with any applicable court  
13 order of which the district or school has knowledge.

14 [Sections 37.169-37.200 reserved for expansion]

15 SUBCHAPTER E. DISCIPLINARY ALTERNATIVE EDUCATION PROGRAMS

16 Sec. 37.201. DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM.

17 (a) Each school district shall provide a disciplinary alternative  
18 education program that provides instructional programming to  
19 students to enable academic achievement and positive behavioral  
20 changes. Each disciplinary alternative education program shall:

21 (1) be provided in a setting other than a student's  
22 regular classroom;

23 (2) be located on or off of a regular school campus;

24 (3) provide for the students who are assigned to the  
25 program to be separated from students who are not assigned to the  
26 program;

27 (4) focus on English language arts, mathematics,

1 science, social studies, and self-discipline;

2 (5) provide for students' educational and behavioral  
3 needs;

4 (6) provide supervision and counseling;

5 (7) ensure that each teacher in the program meets all  
6 certification requirements established under Subchapter B, Chapter  
7 21; and

8 (8) operate at least seven hours per day and 180 days  
9 per year, except that the program may follow the same calendar  
10 adopted by the district for all district campuses.

11 (b) A disciplinary alternative education program may  
12 provide for a student's transfer to:

13 (1) a different campus or program;

14 (2) a school-community guidance center; or

15 (3) a community-based alternative school.

16 (c) An off-campus disciplinary alternative education  
17 program is not subject to a requirement imposed by this title, other  
18 than a limitation on liability, a reporting requirement, or a  
19 requirement imposed by this chapter or by Chapter 39.

20 (d) A school district may provide a disciplinary  
21 alternative education program jointly with one or more other  
22 districts. For purposes of Section 42.005, a student placed in a  
23 joint program under this subsection is included only in the average  
24 daily attendance of the district placing the student.

25 (e) Each school district shall cooperate with government  
26 agencies and community organizations that provide services in the  
27 district to students placed in a disciplinary alternative education

1 program.

2 (f) A school district may not place a student, other than a  
3 student assigned to out-of-school suspension as provided under  
4 Section 37.154 or expelled as provided under Section 37.158 or  
5 37.159, in an unsupervised setting as a result of conduct for which  
6 a student may be placed in a disciplinary alternative education  
7 program.

8 (g) On request of a school district, a regional education  
9 service center may provide to the district information on  
10 developing a disciplinary alternative education program that takes  
11 into consideration the district's size, wealth, and existing  
12 facilities in determining the program best suited to the district.

13 (h) A school district is only required to provide in a  
14 disciplinary alternative education program a course necessary to  
15 fulfill a student's high school graduation requirements as provided  
16 by this subchapter.

17 Sec. 37.202. OPPORTUNITY TO COMPLETE COURSEWORK IN  
18 DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM. (a) A school  
19 district shall offer a student removed to a disciplinary  
20 alternative education program an opportunity to complete  
21 coursework before the beginning of the next school year.

22 (b) The school district may provide the student an  
23 opportunity to complete coursework through any method available,  
24 including a correspondence course, distance learning, or summer  
25 school.

26 (c) The district may not charge the student for a course  
27 provided under this section.



1       Sec. 37.203. REVIEW OF STATUS OF STUDENT PLACED IN  
2 DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM. (a) A student placed  
3 in a disciplinary alternative education program shall be provided a  
4 review of the student's status, including a review of the student's  
5 academic status, by the school district at intervals not to exceed  
6 120 days. In the case of a high school student, the district, with  
7 the student's parent or guardian, shall review the student's  
8 progress towards meeting high school graduation requirements and  
9 shall establish a specific graduation plan for the student.

10       (b) The district is not required under this section to  
11 provide a course in the district's disciplinary alternative  
12 education program except as otherwise required under this  
13 subchapter.

14       Sec. 37.204. CHEMICAL DEPENDENCY TREATMENT SERVICES.

15       (a) A program of educational and support services may be provided  
16 to a student placed in a disciplinary alternative education program  
17 and to the student's parents when the offense involves drugs or  
18 alcohol as specified under Section 37.156, 37.158, or 37.159.

19       (b) A disciplinary alternative education program that  
20 provides chemical dependency treatment services must be licensed  
21 under Chapter 464, Health and Safety Code.

22       Sec. 37.205. FUNDING OF DISCIPLINARY ALTERNATIVE EDUCATION  
23 PROGRAMS. (a) A student removed to a disciplinary alternative  
24 education program is counted in computing the average daily  
25 attendance of students in the district for the student's time in  
26 actual attendance in the program.

27       (b) A school district shall allocate to a disciplinary

1 alternative education program the same expenditure per student  
2 attending the program, including federal, state, and local funds,  
3 that would be allocated to the student's school if the student were  
4 attending the student's regularly assigned education program,  
5 including a special education program.

6 Sec. 37.206. TRANSFER OF STUDENT PLACED IN DISCIPLINARY  
7 ALTERNATIVE EDUCATION PROGRAM TO ANOTHER SCHOOL DISTRICT. (a) If  
8 a student placed in a disciplinary alternative education program  
9 enrolls in another school district before the expiration of the  
10 period of placement, the board of trustees of the district  
11 requiring the placement shall provide to the district in which the  
12 student enrolls, at the same time other records of the student are  
13 provided, a copy of the placement order. The district in which the  
14 student enrolls may continue the disciplinary alternative  
15 education program placement under the terms of the order or may  
16 allow the student to attend regular classes without completing the  
17 period of placement. A district may take any action permitted by  
18 this subsection if:

19 (1) the student was previously enrolled in an  
20 open-enrollment charter school and the charter school provides the  
21 district with documentation of the student's conduct that under the  
22 district's student code of conduct would require or allow the  
23 student to be placed in a disciplinary alternative education  
24 program; or

25 (2) the student was placed in a disciplinary  
26 alternative education program by a school district in another state  
27 and:

1           (A) the out-of-state district provides to the  
2 district a copy of the placement order; and

3           (B) the grounds for the placement by the  
4 out-of-state district are grounds for placement in the district in  
5 which the student is enrolling.

6           (b) If a student was placed in a disciplinary alternative  
7 education program by a school district in another state for a period  
8 that exceeds one year and a school district in this state in which  
9 the student enrolls continues the placement under Subsection (a),  
10 the district shall reduce the period of the placement so that the  
11 aggregate period does not exceed one year unless, after a review,  
12 the district determines that:

13           (1) the student is a threat to the safety of other  
14 students or to district employees; or

15           (2) extended placement is in the best interest of the  
16 student.

17           Sec. 37.207. EVALUATION OF DISCIPLINARY ALTERNATIVE  
18 EDUCATION PROGRAMS. (a) The commissioner shall adopt rules  
19 necessary to evaluate annually the performance of each district's  
20 disciplinary alternative education program established under this  
21 subchapter.

22           (b) The evaluation required by this section must be based on  
23 indicators defined by the commissioner and must include student  
24 performance on assessment instruments required under Sections  
25 39.023(a) and (c). The system must be designed to identify  
26 districts that are at a high risk of having inaccurate disciplinary  
27 alternative education program data or of failing to comply with

1 disciplinary alternative education program requirements.

2 (c) The commissioner shall notify the board of trustees of a  
3 district of any objection the commissioner has to the district's  
4 disciplinary alternative education program data or of a violation  
5 of a law or rule revealed by the data, including any violation of  
6 disciplinary alternative education program requirements, or of any  
7 recommendation by the commissioner concerning the data.

8 (d) If the data reflect that a penal law has been violated,  
9 the commissioner shall notify the county attorney, district  
10 attorney, or criminal district attorney, as appropriate, and the  
11 attorney general.

12 (e) The commissioner is entitled to access to all district  
13 records the commissioner considers necessary or appropriate for the  
14 review, analysis, or approval of disciplinary alternative  
15 education program data.

16 Sec. 37.208. MINIMUM STANDARDS FOR DISCIPLINARY  
17 ALTERNATIVE EDUCATION PROGRAMS. (a) Notwithstanding any other  
18 provision in this code, the commissioner shall adopt reasonable  
19 rules regarding minimum standards for the operation of disciplinary  
20 alternative education programs created under this subchapter.  
21 Minimum standards shall include staffing ratios, staff training,  
22 security and control, reporting of abuse, neglect and exploitation,  
23 and health and safety.

24 (b) The commissioner shall develop a compliance monitoring  
25 system that includes identification of high risk disciplinary  
26 alternative education programs and on-site monitoring of those  
27 identified. The monitoring system shall require the issuance of a

1 monitoring report identifying areas of noncompliance, a system to  
2 track corrective actions plans for disciplinary alternative  
3 education programs, and a system to track the progression,  
4 completion, and verification of those plans. Additionally, the  
5 system shall allow the issuance, notification, and tracking of  
6 findings of noncompliance that are cited outside of the normal  
7 monitoring process, such as unannounced visits or investigations.

8 [Sections 37.209-37.250 reserved for expansion]

9 SUBCHAPTER F. JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAMS;  
10 COORDINATION WITH JUVENILE JUSTICE AGENCIES

11 Sec. 37.251. JUVENILE JUSTICE ALTERNATIVE EDUCATION  
12 PROGRAM. (a) The juvenile board of a county with a population  
13 greater than 125,000 shall develop a juvenile justice alternative  
14 education program, subject to the approval of the Texas Juvenile  
15 Probation Commission. Only the juvenile board of a county has the  
16 authority to operate a juvenile justice alternative education  
17 program.

18 (b) The juvenile board of a county with a population of  
19 125,000 or less may develop a juvenile justice alternative  
20 education program. A juvenile justice alternative education  
21 program in a county with a population of 125,000 or less:

22 (1) is not required to be approved by the Texas  
23 Juvenile Probation Commission;

24 (2) is not subject to Subsection (d) or (e) or Sections  
25 37.252(a)-(d); and

26 (3) is required to adhere to all health and safety  
27 standards established under 37 T.A.C. Chapter 348.

1       (c) The mission of a juvenile justice alternative education  
2 program is to provide instructional programming to students to  
3 enable academic achievement and positive behavioral changes.

4       (d) A juvenile justice alternative education program shall  
5 adopt a student code of conduct in accordance with rules adopted by  
6 the Texas Juvenile Probation Commission.

7       (e) A juvenile justice alternative education program shall  
8 operate at least seven hours per day and 180 days per year, except  
9 that a program may apply to the Texas Juvenile Probation Commission  
10 for a waiver of the 180-day requirement. The Texas Juvenile  
11 Probation Commission may not grant a waiver to a program under this  
12 subsection for a number of days that exceeds the highest number of  
13 instructional days waived by the commissioner during the same  
14 school year for a school district served by the program.

15       (f) A juvenile justice alternative education program may be  
16 provided in a facility owned by a school district. A school  
17 district may provide personnel and services for a juvenile justice  
18 alternative education program under a contract with the juvenile  
19 board.

20       (g) A juvenile justice alternative education program shall  
21 be subject to a written operating policy developed by the juvenile  
22 board in accordance with rules adopted by the Texas Juvenile  
23 Probation Commission. A juvenile justice alternative education  
24 program is not subject to a requirement imposed by this title, other  
25 than a reporting requirement or a requirement imposed by this  
26 chapter or by Chapter 39.

27       (h) A student transferred to a juvenile justice alternative

1 education program must participate in the program for the full  
2 period ordered by the court unless the student's school district  
3 agrees to accept the student before the date ordered by the court.  
4 The court may not order a period of transfer under this section that  
5 exceeds the term of any probation or community service ordered by  
6 the court.

7 (i) In relation to the development and operation of a  
8 juvenile justice alternative education program, a juvenile board  
9 and a county and a commissioners court are immune from liability to  
10 the same extent as a school district, and the juvenile board's or  
11 county's professional employees and volunteers are immune from  
12 liability to the same extent as a school district's professional  
13 employees and volunteers.

14 (j) In accordance with rules adopted by the board of  
15 trustees for the Teacher Retirement System of Texas, a certified  
16 educator employed by a juvenile board in a juvenile justice  
17 alternative education program shall be eligible for membership and  
18 participation in the system to the same extent that an employee of a  
19 public school district is eligible. The juvenile board shall make  
20 any contribution that otherwise would be the responsibility of the  
21 school district if the person were employed by the school district,  
22 and the state shall make any contribution to the same extent as if  
23 the person were employed by a school district.

24 Sec. 37.252. CURRICULUM; ACCOUNTABILITY. (a) A juvenile  
25 justice alternative education program shall focus on English  
26 language arts, mathematics, science, social studies, and  
27 self-discipline.

1       (b) A juvenile justice alternative education program shall  
2 administer assessment instruments under Subchapter B, Chapter 39,  
3 and offer a high school equivalency program.

4       (c) A juvenile justice alternative education program shall  
5 regularly provide to a student a review of the student's academic  
6 progress. In the case of a high school student, the juvenile board  
7 or the board's designee, with the student's parent or guardian,  
8 shall review the student's progress towards meeting high school  
9 graduation requirements and establish a specific graduation plan  
10 for the student.

11       (d) A juvenile justice alternative education program is not  
12 required to provide a course necessary to fulfill a student's high  
13 school graduation requirements other than a course specified by  
14 this section.

15       (e) Each school district shall consider course credit  
16 earned by a student while in a juvenile justice alternative  
17 education program as credit earned in a district school.

18       (f) For purposes of accountability under Chapter 39, a  
19 student enrolled in a juvenile justice alternative education  
20 program is reported as if the student were enrolled at the student's  
21 assigned campus in the student's regularly assigned education  
22 program, including a special education program. The Texas Juvenile  
23 Probation Commission shall develop and implement a system of  
24 accountability consistent with Chapter 39, where appropriate, to  
25 assure that students make academic and behavioral gains while  
26 attending a juvenile justice alternative education program.

27       (g) The juvenile board or the board's designee shall



1 recommend that a student placed in a juvenile justice alternative  
2 education program participate in the high school equivalency  
3 program offered by the juvenile justice alternative education  
4 program if:

5 (1) the student is at least 16 years of age;

6 (2) the student is not likely to receive a high school  
7 diploma before the sixth school year following the student's  
8 enrollment in grade nine, as determined by the board or the board's  
9 designee; and

10 (3) the student's parent or guardian consents to the  
11 student participating in the high school equivalency program.

12 Sec. 37.253. JOINT MEMORANDUM OF UNDERSTANDING. (a) Not  
13 later than September 1 of each school year, each county juvenile  
14 board that operates a juvenile justice alternative education  
15 program under this subchapter and each school district in that  
16 county shall enter into a joint memorandum of understanding that:

17 (1) outlines the responsibilities of the juvenile  
18 board concerning the establishment and operation of a juvenile  
19 justice alternative education program under this subchapter;

20 (2) defines the amount and conditions on payments from  
21 the school district to the juvenile board for students of the school  
22 district served in the juvenile justice alternative education  
23 program whose placement was made on the basis of a discretionary  
24 expulsion under Section 37.159;

25 (3) identifies those categories of conduct that the  
26 school district has defined in its student code of conduct as  
27 constituting serious misconduct for which a student may be expelled

1 and placed in a juvenile justice alternative education program, as  
2 provided under Section 37.002(a)(4);

3 (4) establishes services for transitioning students  
4 to the school district before completion of the student's placement  
5 in the juvenile justice alternative education program;

6 (5) establishes a plan that provides transportation  
7 services for students placed in the juvenile justice alternative  
8 education program;

9 (6) establishes the circumstances and conditions  
10 under which a student may be allowed to remain in the juvenile  
11 justice alternative education program setting once the student is  
12 no longer under juvenile court jurisdiction;

13 (7) establishes a plan to address special education  
14 services required by law; and

15 (8) establishes the time frames and identifies student  
16 information that will be transferred to and from the juvenile  
17 justice alternative education program.

18 (b) The school district is responsible for providing an  
19 immediate educational program to students who engage in behavior  
20 resulting in expulsion but who are not eligible for admission into  
21 the juvenile justice alternative education program in accordance  
22 with the memorandum of understanding required under this section.  
23 The school district may provide the program or the school district  
24 may contract with a county juvenile board, a private provider, or  
25 one or more other school districts to provide the program.

26 (c) If a student who is ordered to attend a juvenile justice  
27 alternative education program moves from one county to another, the

1 court may request the juvenile justice alternative education  
2 program in the county to which the student moves to provide  
3 educational services to the student in accordance with the local  
4 memorandum of understanding between the school district and  
5 juvenile board in the receiving county.

6 (d) If the juvenile board elects to serve students expelled  
7 under Section 37.159 and the juvenile board and school district are  
8 unable to reach an agreement in the memorandum of understanding,  
9 either party may request that the issues of dispute be referred to a  
10 binding arbitration process that uses a qualified alternative  
11 dispute resolution arbitrator in which each party will pay its pro  
12 rata share of the arbitration costs. Each party must submit its  
13 final proposal to the arbitrator. If the parties cannot agree on an  
14 arbitrator, the juvenile board shall select an arbitrator, the  
15 school districts shall select an arbitrator, and those two  
16 arbitrators shall select an arbitrator who will decide the issues  
17 in dispute. An arbitration decision issued under this subsection  
18 is enforceable in a court in the county in which the juvenile  
19 justice alternative education program is located. Any decision by  
20 an arbitrator concerning the amount of the funding for a student who  
21 is expelled and attending a juvenile justice alternative education  
22 program must provide an amount sufficient based on operation of the  
23 juvenile justice alternative education program in accordance with  
24 this chapter. In determining the amount to be paid by a school  
25 district for an expelled student enrolled in a juvenile justice  
26 alternative education program, the arbitrator shall consider the  
27 relevant factors, including evidence of:

1           (1) the actual average total per student expenditure  
2 in the district's disciplinary alternative education program;

3           (2) the expected per student cost in the juvenile  
4 justice alternative education program as described and agreed on in  
5 the memorandum of understanding and in compliance with this  
6 chapter; and

7           (3) the costs necessary to achieve the accountability  
8 goals under this chapter.

9           Sec. 37.254. FUNDING OF JUVENILE JUSTICE ALTERNATIVE  
10 EDUCATION PROGRAMS. (a) The Texas Juvenile Probation Commission  
11 shall adopt rules for the distribution of funds appropriated under  
12 this subchapter to juvenile boards in counties required to  
13 establish juvenile justice alternative education programs. Except  
14 as determined by the commissioner, a student served by a juvenile  
15 justice alternative education program on the basis of a mandatory  
16 expulsion under Section 37.158 or court placement under Section  
17 37.164 is not eligible for Foundation School Program payments or  
18 textbooks under Chapter 31 if the juvenile justice alternative  
19 education program receives funding from the Texas Juvenile  
20 Probation Commission under this subchapter.

21           (b) Subject to Section 37.253(c), the school district in  
22 which a student is enrolled on the date the student is expelled for  
23 conduct for which expulsion is permitted under Section 37.159  
24 shall, if the student is served by the juvenile justice alternative  
25 education program, provide funding to the juvenile board for the  
26 portion of the school year for which the juvenile justice  
27 alternative education program provides educational services in an

1 amount determined by the memorandum of understanding under Section  
2 37.253(a)(2).

3 (c) Funds received under this section must be expended on  
4 juvenile justice alternative education programs.

5 (d) The Office of State-Federal Relations shall assist a  
6 local juvenile probation department in identifying additional  
7 state or federal funds to assist in conducting educational or job  
8 training programs within a juvenile justice alternative education  
9 program.

10 (e) A school district may agree in the memorandum of  
11 understanding described by Section 37.253 to provide funding to a  
12 juvenile board for a student for whom the juvenile justice  
13 alternative education program has not received funding from the  
14 Texas Juvenile Probation Commission.

15 (f) Except as otherwise authorized by law, a juvenile  
16 justice alternative education program may not require a student or  
17 the parent or guardian of a student to pay any fee, including an  
18 entrance fee or supply fee, for participating in the program.

19 Sec. 37.255. SCHOOL DISTRICTS NOT LOCATED IN COUNTY  
20 OPERATING JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM. (a) A  
21 school district that is located in a county that does not operate a  
22 juvenile justice alternative education program under Section  
23 37.251 may:

24 (1) negotiate an agreement with a county that operates  
25 a juvenile justice alternative education program; or

26 (2) provide an educational program for expelled  
27 students and students subject to a court placement under Section

1 37.164 in a manner that ensures that such students are separated  
2 from other students at a regular campus, including any students  
3 placed in a disciplinary alternative education program operated at  
4 the campus.

5 (b) A school district that chooses to operate an educational  
6 program under this section shall:

7 (1) provide a program that is operated in accordance  
8 with the district's regular school calendar;

9 (2) operate the program at least four hours per day;

10 (3) enter into a memorandum of understanding with the  
11 juvenile board of the county in which the district is located to  
12 obtain assistance with support services, supervision, and  
13 enforcement;

14 (4) provide program instruction in English language  
15 arts, mathematics, science, social studies, and self-discipline;

16 (5) periodically review a student's educational  
17 progress while attending the program; and

18 (6) grant course credit for the work completed by a  
19 student while attending the program.

20 (c) A school district is entitled to count a student who  
21 attends a program under this section in the district's average  
22 daily attendance for purposes of receipt of state funds under the  
23 Foundation School Program.

24 Sec. 37.256. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN  
25 JUVENILE RESIDENTIAL FACILITIES. A school district that provides  
26 education services to pre-adjudicated and post-adjudicated  
27 students who are confined by court order in a juvenile residential

1 facility operated by a juvenile board is entitled to count such  
2 students in the district's average daily attendance for purposes of  
3 receipt of state funds under the Foundation School Program. If the  
4 district has a wealth per student greater than the guaranteed  
5 wealth level but less than the equalized wealth level, the district  
6 in which the student is enrolled on the date a court orders the  
7 student to be confined to a juvenile residential facility shall  
8 transfer to the district providing education services an amount  
9 equal to the difference between the average Foundation School  
10 Program costs per student of the district providing education  
11 services and the sum of the state aid and the money from the  
12 available school fund received by the district that is attributable  
13 to the student for the portion of the school year for which the  
14 district provides education services to the student.

15 Sec. 37.257. COORDINATION BETWEEN SCHOOL DISTRICTS AND  
16 JUVENILE BOARDS. The board of trustees of the school district or  
17 the board's designee shall meet annually with the juvenile board  
18 for the county in which the district's central administrative  
19 office is located or the juvenile board's designee to develop a  
20 memorandum of understanding concerning supervision and  
21 rehabilitative services appropriate for expelled students,  
22 court-placed students, and students assigned to disciplinary  
23 alternative education programs. Matters for discussion shall  
24 include sharing of information, appropriate education placement  
25 for court-related students, mentoring, tutoring, and coordinating  
26 of related services.

27 Sec. 37.258. COURT-RELATED CHILDREN-LIAISON OFFICERS.

1 Each school district shall appoint at least one educator to act as  
2 liaison officer for court-related children who are enrolled in the  
3 district. The liaison officer shall provide counseling and  
4 services for each court-related child and the child's parents to  
5 establish or reestablish normal attendance and progress of the  
6 child in the school.

7 Sec. 37.259. INTERAGENCY SHARING OF RECORDS. (a) A  
8 school district superintendent or the superintendent's designee  
9 may disclose information contained in a student's educational  
10 records to a juvenile justice agency, as that term is defined by  
11 Section 58.101, Family Code, if the disclosure is under an  
12 interagency agreement authorized by Section 58.0051, Family Code.

13 (b) The commissioner may enter into an interagency  
14 agreement to share educational information for research, audit, and  
15 analytical purposes with:

- 16 (1) the Texas Juvenile Probation Commission;  
17 (2) the Texas Youth Commission; and  
18 (3) the Texas Department of Criminal Justice.

19 (c) This section does not require or authorize release of  
20 student-level information except in conformity with the Family  
21 Educational Rights and Privacy Act of 1974 (20 U.S.C. Section  
22 1232g).

23 [Sections 37.260-37.300 reserved for expansion]

24 SUBCHAPTER G. NOTIFICATION; REPORTS

25 Sec. 37.301. REPORTS TO LOCAL LAW ENFORCEMENT;  
26 LIABILITY. (a) The principal of a public or private primary or  
27 secondary school, or a person designated by the principal under



1 Subsection (d), shall notify any school district police department  
2 and the police department of the municipality in which the school is  
3 located or, if the school is not located in a municipality, the  
4 sheriff of the county in which the school is located if the  
5 principal has reasonable grounds to believe that any of the  
6 following activities occur in school, on school property, or at a  
7 school-sponsored or school-related activity on or off school  
8 property, whether or not the activity is investigated by school  
9 security officers:

10 (1) conduct that may constitute a felony offense;

11 (2) deadly conduct under Section 22.05, Penal Code;

12 (3) a terroristic threat under Section 22.07, Penal  
13 Code;

14 (4) the use, sale, or possession of a controlled  
15 substance, drug paraphernalia, or marihuana under Chapter 481,  
16 Health and Safety Code;

17 (5) the possession of any weapon or device listed  
18 under Sections 46.01(1)-(14) or Section 46.01(16), Penal Code;

19 (6) conduct that may constitute a criminal offense  
20 under Section 71.02, Penal Code; or

21 (7) other conduct that may constitute a criminal  
22 offense for which a student may be expelled under Section 37.158 or  
23 37.159.

24 (b) A person who makes a notification under this section  
25 shall include the name and address of each student the person  
26 believes may have participated in the activity.

27 (c) A notification is not required under Subsection (a) if

1 the person reasonably believes that the activity does not  
2 constitute a criminal offense.

3 (d) The principal of a public or private primary or  
4 secondary school may designate a school employee who is under the  
5 supervision of the principal to make the reports required by this  
6 section.

7 (e) The person who makes the notification required under  
8 Subsection (a) shall also notify each instructional or support  
9 employee of the school who has regular contact with a student whose  
10 conduct is the subject of the notice.

11 (f) A teacher, school administrator, or school employee is  
12 not liable in civil damages for reporting to a school administrator  
13 or governmental authority, in the exercise of professional judgment  
14 within the scope of the teacher's, administrator's, or employee's  
15 duties, a student whom the teacher suspects committed an offense  
16 under the laws of the state.

17 Sec. 37.302. NOTIFICATION TO SCHOOLS CONCERNING CERTAIN  
18 CRIMINAL ACTIVITY. (a) In this section:

19 (1) "Principal" includes a principal's designee.

20 (2) "Superintendent" includes a superintendent's  
21 designee.

22 (b) This section applies to any felony offense and the  
23 following misdemeanors:

24 (1) Section 20.02, Penal Code (Unlawful Restraint);

25 (2) Section 21.07, Penal Code (Public Lewdness);

26 (3) Section 21.08, Penal Code (Indecent Exposure);

27 (4) Section 22.01, Penal Code (Assault);

1           (5) Section 22.05, Penal Code (Deadly Conduct);

2           (6) Section 22.07, Penal Code (Terroristic Threat);

3           (7) Section 42.06, Penal Code (False Alarm or Report);

4           (8) Section 71.02, Penal Code (Engaging in Organized  
5 Criminal Activity);

6           (9) the unlawful use, sale, or possession of a  
7 controlled substance, drug paraphernalia, or marihuana, as defined  
8 by Chapter 481, Health and Safety Code; or

9           (10) the unlawful possession of any of the weapons or  
10 devices listed in Sections 46.01(1)-(14) or (16), Penal Code, or a  
11 weapon listed as a prohibited weapon under Section 46.05, Penal  
12 Code.

13           (c) A law enforcement agency that arrests any person or  
14 refers a person who is a child to the office or official designated  
15 by the juvenile board for an offense listed under Subsection (b) who  
16 the agency believes is enrolled as a student in a public or private  
17 primary or secondary school shall attempt to determine whether the  
18 person is a student. If the law enforcement agency determines that  
19 the person is a student, the agency shall orally notify the  
20 superintendent of the school district or the principal of the  
21 private school in which the student is enrolled of the arrest or  
22 referral within 24 hours after the arrest or referral is made or on  
23 the next school day. If the law enforcement agency cannot determine  
24 whether the person is a student, the agency shall orally notify the  
25 superintendent of the school district or the principal of the  
26 private school in which the person is believed to be enrolled of the  
27 arrest or referral within 24 hours after the arrest or referral or

1 on the next school day.

2 (d) On receiving notification under Subsection (c)  
3 concerning a student enrolled in the school district or private  
4 school, the superintendent of the district or principal of the  
5 private school shall within 24 hours or on the next school day  
6 notify all instructional and support personnel who have  
7 responsibility for supervising the student.

8 (e) Not later than the seventh day after the date the oral  
9 notice is provided under Subsection (c), the law enforcement agency  
10 shall mail written notification, marked "PERSONAL and  
11 CONFIDENTIAL" on the mailing envelope, to the superintendent of the  
12 school district or the principal of the private school. Both the  
13 oral and written notice must contain sufficient details of the  
14 arrest or referral and the acts allegedly committed by the student  
15 to enable the superintendent or principal to determine whether  
16 there is a reasonable belief that the student has engaged in conduct  
17 listed under Subsection (b). The information contained in the  
18 notice may be considered by the superintendent or principal in  
19 making such a determination.

20 (f) The office of the prosecuting attorney or the office or  
21 official designated by the juvenile board shall, within two working  
22 days, notify the superintendent of the school district or the  
23 principal of the private school if:

24 (1) prosecution of the student's case was refused for  
25 lack of prosecutorial merit or insufficient evidence and no formal  
26 proceedings, deferred adjudication, or deferred prosecution will  
27 be initiated; or

1           (2) the court or jury found the student not guilty or  
2 made a finding that the student did not engage in delinquent conduct  
3 or conduct indicating a need for supervision and the case was  
4 dismissed with prejudice.

5           (g) On conviction, deferred prosecution, or deferred  
6 adjudication or an adjudication of delinquent conduct of a person  
7 enrolled as a student in a public or private primary or secondary  
8 school for an offense listed under Subsection (b), the office of the  
9 prosecuting attorney acting in the case shall orally notify the  
10 superintendent of the school district or the principal of the  
11 private school in which the student is enrolled of the conviction or  
12 adjudication within 24 hours of the time of the order or on the next  
13 school day. The superintendent or principal shall within 24 hours  
14 or on the next school day notify all instructional and support  
15 personnel who have regular contact with the student.

16           (h) Not later than the seventh day after the date the oral  
17 notice is provided under Subsection (g), the office of the  
18 prosecuting attorney shall mail written notice to the  
19 superintendent or principal. The written notice must contain a  
20 statement of the offense of which the person is convicted or on  
21 which the adjudication, deferred adjudication, or deferred  
22 prosecution is grounded. The notice required under this subsection  
23 must:

24           (1) contain details of the offense or conduct  
25 committed by the person; and

26           (2) state whether the person is required to register  
27 as a sex offender under Chapter 62, Code of Criminal Procedure.

1       (i) A parole or probation office having jurisdiction over a  
2 student described by Subsection (c) or (g) who transfers from a  
3 school or is subsequently removed from a school and later returned  
4 to a school or school district other than the one the student was  
5 enrolled in when the arrest, referral to a juvenile court,  
6 conviction, or adjudication occurred shall notify the new school  
7 officials of the arrest or referral in the same manner to that  
8 provided for by Subsection (c) or of the conviction or delinquent  
9 adjudication in the same manner to that provided for by Subsection  
10 (g). The Texas Youth Commission shall provide the notice required  
11 by this subsection if the student is committed to the commission.  
12 The new school officials shall within 24 hours or on the next school  
13 day notify all instructional and support personnel who have regular  
14 contact with the student.

15       (j) The superintendent of the school district or the  
16 principal of the private school may send to any school district or  
17 school employee the information contained in a written notification  
18 provided under this section if the superintendent or principal  
19 determines that the employee needs the information for educational  
20 purposes or for the protection of the person informed or others.

21       (k) A person who receives information under this section may  
22 not disclose the information except as specifically authorized by  
23 this section. The State Board for Educator Certification may  
24 revoke or suspend the certification of a school employee who  
25 intentionally violates this subsection.

26       (l) A person may substitute electronic notification for  
27 oral notification where oral notification is required under this

1 section. If electronic notification is substituted for oral  
2 notification, any written notification required under this section  
3 is not required.

4 (m) A person who intentionally violates this section  
5 commits an offense. An offense under this subsection is a Class C  
6 misdemeanor.

7 Sec. 37.303. DESTRUCTION OF CERTAIN RECORDS. Information  
8 received by a school district under Section 37.302 may not be  
9 attached to the permanent academic file of the student who is the  
10 subject of the report. The school district shall destroy the  
11 information not later the first anniversary of the date on which the  
12 district received the information.

13 Sec. 37.304. REPORTS RELATING TO EXPULSIONS AND  
14 DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM PLACEMENTS. (a) In  
15 the manner required by the commissioner, each school district shall  
16 annually report to the commissioner the information required by  
17 this section.

18 (b) For each placement in a disciplinary alternative  
19 education program established under Subchapter E, the district  
20 shall report:

21 (1) information identifying the student, including  
22 the student's race, sex, and date of birth, that will enable the  
23 agency to compare placement data with information collected through  
24 other reports;

25 (2) information indicating whether the placement was  
26 based on:

27 (A) conduct violating the student code of conduct

1 adopted under Section 37.002;

2 (B) conduct for which a student may be removed  
3 from class under Section 37.151(b);

4 (C) conduct for which placement in a disciplinary  
5 alternative education program is required by Section 37.156; or

6 (D) conduct occurring while a student was  
7 enrolled in another district and for which placement in a  
8 disciplinary alternative education program is permitted by Section  
9 37.206(a);

10 (3) the number of full or partial days the student was  
11 assigned to the program and the number of full or partial days the  
12 student attended the program; and

13 (4) the number of placements that were inconsistent  
14 with the guidelines included in the student code of conduct under  
15 Section 37.002(a)(6).

16 (c) For each expulsion under Section 37.158 or 37.159, the  
17 district shall report:

18 (1) information identifying the student, including  
19 the student's race, sex, and date of birth, that will enable the  
20 agency to compare placement data with information collected through  
21 other reports;

22 (2) information indicating whether the expulsion was  
23 based on:

24 (A) conduct for which expulsion is required under  
25 Section 37.158, including information specifically indicating  
26 whether a student was expelled on the basis of Section 37.158(b); or

27 (B) conduct for which expulsion is permitted



1 under Section 37.159;

2 (3) the number of full or partial days the student was  
3 expelled;

4 (4) information indicating whether:

5 (A) the student was placed in a juvenile justice  
6 alternative education program;

7 (B) the student was placed in a disciplinary  
8 alternative education program; or

9 (C) the student was not placed in a juvenile  
10 justice or other disciplinary alternative education program; and

11 (5) the number of expulsions that were inconsistent  
12 with the guidelines included in the student code of conduct under  
13 Section 37.002(a)(6).

14 [Sections 37.305-37.350 reserved for expansion]

15 SUBCHAPTER H. TEXAS SCHOOL SAFETY CENTER

16 Sec. 37.351. DEFINITIONS. In this subchapter:

17 (1) "Board" means the board of directors of the  
18 center.

19 (2) "Center" means the Texas School Safety Center.

20 Sec. 37.352. PURPOSE. The purpose of the center is to serve  
21 as:

22 (1) a central location for school safety information,  
23 including research, training, and technical assistance related to  
24 successful school safety programs; and

25 (2) a resource for the prevention of youth violence  
26 and the promotion of safety in the state.

27 Sec. 37.353. BOARD. (a) The center is advised by a board of

1 directors composed of:

2 (1) the attorney general, or the attorney general's  
3 designee;

4 (2) the commissioner, or the commissioner's designee;

5 (3) the executive director of the Texas Juvenile  
6 Probation Commission, or the executive director's designee;

7 (4) the executive director of the Texas Youth  
8 Commission, or the executive director's designee;

9 (5) the executive commissioner of the Health and Human  
10 Services Commission, or the executive commissioner's designee; and

11 (6) the following members appointed by the governor  
12 with the advice and consent of the senate:

13 (A) a juvenile court judge;

14 (B) a member of a school district's board of  
15 trustees;

16 (C) an administrator of a public primary school;

17 (D) an administrator of a public secondary  
18 school;

19 (E) a member of the state parent-teacher  
20 association;

21 (F) a teacher from a public primary or secondary  
22 school;

23 (G) a public school superintendent who is a  
24 member of the Texas Association of School Administrators;

25 (H) a school district police officer or a peace  
26 officer whose primary duty consists of working in a public school;

27 and

1                   (I) two members of the public.

2           (b) Members of the board appointed under Subsection (a)(6)  
3 serve staggered two-year terms, with the terms of the members  
4 described by Subsections (a)(6)(A)-(E) expiring on February 1 of  
5 each odd-numbered year and the terms of the members described by  
6 Subsections (a)(6)(F)-(I) expiring on February 1 of each  
7 even-numbered year. A member may serve more than one term.

8           (b-1) A person appointed to the board under former Section  
9 37.203, as that section existed on January 1, 2007, continues to  
10 serve until the expiration of the person's term as provided by that  
11 section. This subsection expires February 1, 2009.

12           (c) The board may form committees as necessary.

13           Sec. 37.354. OFFICERS; MEETINGS; COMPENSATION. (a) The  
14 board shall annually elect from among its members a chairperson and  
15 a vice chairperson.

16           (b) The board shall meet at least four times each year.

17           (c) A member of the board may not receive compensation but  
18 is entitled to reimbursement of the travel expenses incurred by the  
19 member while conducting the business of the board as provided by the  
20 General Appropriations Act.

21           Sec. 37.355. CENTER PROGRAMS. (a) The center shall conduct  
22 for school districts a safety training program that includes:

23                   (1) development of a positive school environment and  
24 proactive safety measures designed to address local concerns;

25                   (2) school safety courses for law enforcement  
26 officials, with a focus on school district police officers and  
27 school resource officers;

1           (3) discussion of school safety issues with parents  
2 and community members; and

3           (4) assistance in developing a multihazard emergency  
4 operations plan for adoption under Section 37.057.

5           (b) The center shall develop security criteria that school  
6 districts may consider in the design of instructional facilities.

7           (c) The center shall develop a model safety and security  
8 audit procedure for use by school districts that includes:

9           (1) providing each district with guidelines and a  
10 training video showing proper audit procedures;

11           (2) reviewing each district audit, providing the  
12 results of the review to the district, and making recommendations  
13 for improvements based on the audit; and

14           (3) incorporating the findings of district audits in a  
15 statewide report on school safety made available by the center to  
16 the public.

17           (d) On request of a school district, the center may provide  
18 on-site technical assistance to the district for:

19           (1) school safety and security audits; and  
20           (2) school safety and security information and  
21 presentations.

22           (e) The center shall develop and maintain an interactive  
23 Internet website that includes:

24           (1) quarterly news updates related to school safety  
25 and violence prevention;

26           (2) school crime data;

27           (3) a schedule of training and special events; and

1           (4) a list of persons approved by the board to provide  
2 school safety presentations.

3           (f) The center shall sponsor a student essay contest  
4 entitled "Charting the Course for School Safety."

5           (g) The center shall provide for the public recognition of  
6 schools that implement effective school safety measures and  
7 violence prevention.

8           (h) The center shall promote cooperation between state  
9 agencies, institutions of higher education, and any local juvenile  
10 delinquency prevention councils to address discipline and safety  
11 issues in the state.

12           (i) The center may solicit and accept gifts, grants, and  
13 donations from public and private entities to use for the purposes  
14 of this subchapter.

15           Sec. 37.356. BUDGET. (a) The board shall annually approve  
16 a budget for the center.

17           (b) The center shall biennially prepare a budget request for  
18 submission to the legislature.

19           Sec. 37.357. ANNUAL REPORT. (a) Not later than September 1  
20 of each year, the board shall provide a report to the governor, the  
21 legislature, the State Board of Education, and the agency.

22           (b) The annual report must include any findings made by the  
23 center regarding school safety and the center's functions, budget  
24 information, and strategic planning initiatives of the center.

25           [Sections 37.358-37.400 reserved for expansion]

26           SUBCHAPTER I. SCHOOL-COMMUNITY GUIDANCE CENTERS

27           Sec. 37.401. DEFINITION. In this subchapter, "parent"

1 includes a legal guardian.

2 Sec. 37.402. ESTABLISHMENT. Each school district may  
3 establish a school-community guidance center designed to locate and  
4 assist children with problems that interfere with education,  
5 including juvenile offenders and children with severe behavioral  
6 problems or character disorders. Each center shall coordinate the  
7 efforts of school district personnel, local police departments,  
8 school attendance officers, and probation officers in working with  
9 students, dropouts, and parents in identifying and correcting  
10 factors that adversely affect the education of the children.

11 Sec. 37.403. COOPERATIVE PROGRAMS. The board of trustees  
12 of a school district may develop cooperative programs with state  
13 youth agencies for children found to have engaged in delinquent  
14 conduct.

15 Sec. 37.404. COOPERATION OF GOVERNMENTAL AGENCIES. (a)  
16 Each governmental agency that is concerned with children and that  
17 has jurisdiction in the school district shall cooperate with the  
18 school-community guidance centers on the request of the  
19 superintendent of the district and shall designate a liaison to  
20 work with the centers in identifying and correcting problems  
21 affecting school-age children in the district.

22 (b) The governmental agency may establish or finance a  
23 school-community guidance center jointly with the school district  
24 according to terms approved by the governing body of each entity  
25 participating in the joint establishment or financing of the  
26 center.

27 Sec. 37.405. PARENTAL NOTICE, CONSENT, AND ACCESS TO

1 INFORMATION. (a) Before a student is admitted to a  
2 school-community guidance center, the administrator of the center  
3 must notify the student's parent that the student has been assigned  
4 to attend the center.

5 (b) The notification must include:

6 (1) the reason that the student has been assigned to  
7 the center;

8 (2) a statement that on request the parent is entitled  
9 to be fully informed in writing of any treatment method or testing  
10 program involving the student; and

11 (3) a statement that the parent may request to be  
12 advised and to give written, signed consent for any psychological  
13 testing or treatment involving the student.

14 (c) If, after notification, a parent refuses to consent to  
15 testing or treatment of the student, the center may not provide any  
16 further psychological treatment or testing.

17 (d) A parent of a student attending a center is entitled to  
18 inspect:

19 (1) any instructional or guidance material to be used  
20 by the student, including teachers' manuals, tapes, and films; and

21 (2) the results of any treatment, testing, or guidance  
22 method involving the student.

23 (e) The administrator of the center may set a schedule for  
24 inspection of materials that allows reasonable access but does not  
25 interfere with the conduct of classes or business activities of the  
26 school.

27 Sec. 37.406. PARENTAL INVOLVEMENT. (a) On admitting a

1 student to a school-community guidance center, a representative of  
2 the school district, the student, and the student's parent shall  
3 develop an agreement that specifies the responsibilities of the  
4 parent and the student. The agreement must include:

5 (1) a statement of the student's behavioral and  
6 learning objectives;

7 (2) a requirement that the parent attend specified  
8 meetings and conferences for teacher review of the student's  
9 progress; and

10 (3) the parent's acknowledgement that the parent  
11 understands and accepts the responsibilities imposed by the  
12 agreement regarding attendance at meetings and conferences and  
13 assistance in meeting other objectives, defined by the district, to  
14 aid student remediation.

15 (b) The superintendent of the school district may obtain a  
16 court order from a district court in the school district requiring a  
17 parent to comply with an agreement made under this section. A  
18 parent who violates a court order issued under this subsection may  
19 be punished for contempt of court.

20 Sec. 37.407. COURT SUPERVISION. (a) In this section,  
21 "court" means a juvenile court or alternate juvenile court  
22 designated under Chapter 51, Family Code. The court may delegate  
23 responsibility under this section to a referee appointed under  
24 Section 51.04, Family Code.

25 (b) If a representative of the school district, the student,  
26 and the parent for any reason fail to reach an agreement under  
27 Section 37.406, the court may, on the request of any party and after



1 a hearing, enter an order establishing the responsibilities and  
2 duties of each of the parties as the court considers appropriate.

3 (c) The court may compel attendance at any hearing held  
4 under this section through any legal process, including subpoena  
5 and habeas corpus.

6 (d) If the parties reach an agreement under Section 37.406,  
7 and if the written agreement so provides, the court may enter an  
8 order that incorporates the terms of the agreement.

9 (e) Any party who violates an order issued under this  
10 section may be punished for contempt of court.

11 (f) A school district may enter into an agreement to share  
12 the costs incurred by a county under this section.

13 SECTION 2. Section 7.111(a), Education Code, is amended to  
14 read as follows:

15 (a) The board shall provide for the administration of high  
16 school equivalency examinations, including administration by the  
17 adjutant general's department for students described by  
18 Subdivision (2)(C). A person who does not have a high school  
19 diploma may take the examination in accordance with rules adopted  
20 by the board if the person is:

21 (1) over 17 years of age;

22 (2) 16 years of age or older and:

23 (A) is enrolled in a Job Corps training program  
24 under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801  
25 et seq.) [~~and its subsequent amendments~~];

26 (B) a public agency providing supervision of the  
27 person or having custody of the person under a court order

1 recommends that the person take the examination; ~~[or]~~

2 (C) is enrolled in the adjutant general's  
3 department's Seaborne Challenge Corps; or

4 (D) a juvenile board or the board's designee  
5 recommends that the person take the examination as provided by  
6 Section 37.252(g); or

7 (3) required to take the examination under a justice  
8 or municipal court order issued under Article 45.054(a)(1)(C), Code  
9 of Criminal Procedure.

10 SECTION 3. Section 25.085(d), Education Code, is amended to  
11 read as follows:

12 (d) Unless specifically exempted by Section 25.086, a  
13 student enrolled in a school district must attend:

14 (1) an extended-year program for which the student is  
15 eligible that is provided by the district for students identified  
16 as likely not to be promoted to the next grade level or tutorial  
17 classes required by the district under Section 29.084;

18 (2) an accelerated reading instruction program to  
19 which the student is assigned under Section 28.006(g);

20 (3) an accelerated instruction program to which the  
21 student is assigned under Section 28.0211;

22 (4) a basic skills program to which the student is  
23 assigned under Section 29.086; ~~[or]~~

24 (5) a summer program provided under Section 37.167  
25 ~~[37.008(1)]~~ or Section 37.202;

26 (6) a juvenile justice alternative education program  
27 operated under Section 37.251 in which the student is placed; or

1           (7) a program operated by a school district under  
2 Section 37.255 in which the student is placed [~~37.021~~].

3           SECTION 4. Section 25.086(a), Education Code, as amended by  
4 Chapters 377, 887, and 1339, Acts of the 79th Legislature, Regular  
5 Session, 2005, is reenacted and amended to read as follows:

6           (a) A child is exempt from the requirements of compulsory  
7 school attendance if the child:

8                 (1) attends a private or parochial school that  
9 includes in its course a study of good citizenship;

10                (2) is eligible to participate in a school district's  
11 special education program under Section 29.003 and cannot be  
12 appropriately served by the resident district;

13                (3) has a physical or mental condition of a temporary  
14 and remediable nature that makes the child's attendance infeasible  
15 and holds a certificate from a qualified physician specifying the  
16 temporary condition, indicating the treatment prescribed to remedy  
17 the temporary condition, and covering the anticipated period of the  
18 child's absence from school for the purpose of receiving and  
19 recuperating from that remedial treatment;

20                (4) is expelled in accordance with the requirements of  
21 law in a school district that does not participate in a [~~mandatory~~]  
22 juvenile justice alternative education program operated under  
23 Section 37.251 [~~37.011~~];

24                (5) is at least 17 years of age and:

25                         (A) is attending a course of instruction to  
26 prepare for the high school equivalency examination, and:

27                                 (i) has the permission of the child's parent

1 or guardian to attend the course;

2 (ii) is required by court order to attend  
3 the course;

4 (iii) has established a residence separate  
5 and apart from the child's parent, guardian, or other person having  
6 lawful control of the child; or

7 (iv) is homeless as defined by 42 U.S.C.  
8 Section 11302; or

9 (B) has received a high school diploma or high  
10 school equivalency certificate;

11 (6) is at least 16 years of age and is attending a  
12 course of instruction to prepare for the high school equivalency  
13 examination, if:

14 (A) the child is recommended to take the course  
15 of instruction by a public agency that has supervision or custody of  
16 the child under a court order; or

17 (B) the child is enrolled in a Job Corps training  
18 program under the Workforce Investment Act of 1998 (29 U.S.C.  
19 Section 2801 et seq.);

20 [~~(B) the child is enrolled in a Job Corps  
21 training program under 29 U.S.C. Section 2881 et seq.~~]

22 (7) is at least 16 years of age and is enrolled in a  
23 high school diploma program under Chapter 18;

24 (8) [~~(7)~~] is enrolled in the Texas Academy of  
25 Mathematics and Science under Subchapter G, Chapter 105;

26 (9) [~~(8)~~] is enrolled in the Texas Academy of  
27 Leadership in the Humanities;

1           (10) [~~(9)~~] is enrolled in the Texas Academy of  
2 Mathematics and Science at The University of Texas at Brownsville;

3           (11) [~~(9)~~] is enrolled in the Texas Academy of  
4 International Studies;

5           (12) is at least 16 years of age and is attending a  
6 course of instruction to prepare for the high school equivalency  
7 examination or has been issued a high school equivalency  
8 certificate, if the child is recommended to take the high school  
9 equivalency examination by a juvenile board or the board's designee  
10 under Section 37.252(g); or

11           (13) [~~(10)~~] is specifically exempted under another  
12 law.

13           SECTION 5. Chapter 17, Code of Criminal Procedure, is  
14 amended by adding Article 17.49 to read as follows:

15           Art. 17.49. CONDITION REQUIRING ATTENDANCE IN JUVENILE  
16 JUSTICE ALTERNATIVE EDUCATION PROGRAM. (a) In a county in which a  
17 juvenile justice alternative education program is operated under  
18 Section 37.251, Education Code, a magistrate may require as a  
19 condition of bond that a defendant who is under the age of 18 and who  
20 is accused of committing an offense listed under Section 37.164,  
21 Education Code, attend the juvenile justice alternative education  
22 program beginning not later than the second school day after the  
23 date the defendant is released on bond. The defendant may be  
24 required to regularly attend the program pending disposition of the  
25 defendant's case.

26           (b) In a county in which a juvenile justice alternative  
27 education program is not operated, the magistrate may require as a

1 condition of bond that a defendant who is under the age of 18 and who  
2 is accused of committing an offense listed under Section 37.164,  
3 Education Code, attend a program provided for under Section 37.255,  
4 Education Code, beginning not later than the second school day  
5 after the date the defendant is released on bond.

6 (c) Not later than the second working day after the date  
7 that the magistrate issues a placement order under this section,  
8 the magistrate shall notify the superintendent of the school  
9 district in which the student is enrolled of the placement.

10 SECTION 6. Section 11, Article 42.12, Code of Criminal  
11 Procedure, is amended by adding Subsections (m), (n), and (o) to  
12 read as follows:

13 (m) In a county in which a juvenile justice alternative  
14 education program is operated under Section 37.251, Education Code,  
15 a court shall require as a condition of community supervision that a  
16 defendant who is under the age of 18 and who was convicted of  
17 committing an offense listed under Section 37.164, Education Code,  
18 attend the juvenile justice alternative education program  
19 beginning not later than the second school day after the date  
20 community supervision is granted.

21 (n) In a county in which a juvenile justice alternative  
22 education program is not operated, the court shall require as a  
23 condition of community service that a defendant who is under the age  
24 of 18 and who has been convicted of an offense listed under Section  
25 37.164, Education Code, attend a program provided for under Section  
26 37.255, Education Code, beginning not later than the second school  
27 day after the date the community supervision is granted.

1       (o) Not later than the second working day after the date the  
2 court issues a placement order under Subsection (m) or (n), the  
3 court shall notify the superintendent of the school district in  
4 which the student is enrolled of the placement.

5       SECTION 7. Sections 51.03(b) and (f), Family Code, are  
6 amended to read as follows:

7       (b) Conduct indicating a need for supervision is:

8           (1) subject to Subsection (f), conduct, other than a  
9 traffic offense, that violates:

10           (A) the penal laws of this state of the grade of  
11 misdemeanor that are punishable by fine only; or

12           (B) the penal ordinances of any political  
13 subdivision of this state;

14           (2) the absence of a child on 10 or more days or parts  
15 of days within a six-month period in the same school year or on  
16 three or more days or parts of days within a four-week period from  
17 school;

18           (3) the voluntary absence of a child from the child's  
19 home without the consent of the child's parent or guardian for a  
20 substantial length of time or without intent to return;

21           (4) conduct prohibited by city ordinance or by state  
22 law involving the inhalation of the fumes or vapors of paint and  
23 other protective coatings or glue and other adhesives and the  
24 abusable volatile chemicals defined by [~~itemized in~~] Section  
25 485.001 [~~484.002~~], Health and Safety Code;

26           (5) an act that violates a school district's  
27 previously communicated written standards of student conduct for

1 which the child has been expelled for serious misconduct under  
2 Section 37.159(a)(4) [~~37.007(e)~~], Education Code; or

3 (6) conduct that violates a reasonable and lawful  
4 order of a court entered under Section 264.305.

5 (f) Conduct [~~Except as provided by Subsection (g), conduct~~]  
6 described under Subsection (b)(1), other than conduct that violates  
7 Section 49.02, Penal Code, prohibiting public intoxication, does  
8 not constitute conduct indicating a need for supervision unless the  
9 child has been referred to the juvenile court under Section  
10 51.08(b).

11 SECTION 8. Section 53.02, Family Code, is amended by  
12 amending Subsection (e) and adding Subsections (e-1) and (e-2) to  
13 read as follows:

14 (e) In [~~Unless otherwise agreed in the memorandum of~~  
15 ~~understanding under Section 37.011, Education Code, in~~] a county  
16 with a juvenile justice alternative education program operated  
17 under Section 37.251, Education Code [~~population greater than~~  
18 ~~125,000~~], if a child being released under this section is expelled  
19 under Section 37.158 [~~37.007~~], Education Code, or is accused of  
20 engaging in conduct constituting an offense listed under Section  
21 37.164, Education Code, the release shall be conditioned on the  
22 child's attending a juvenile justice alternative education program  
23 pending a deferred prosecution or formal court disposition of the  
24 child's case.

25 (e-1) In a county without a juvenile justice alternative  
26 education program, if a child being released under this section is  
27 expelled under Section 37.158, Education Code, or is accused of



1 engaging in conduct constituting an offense listed under Section  
2 37.164, Education Code, the release shall be conditioned on the  
3 child attending a program provided for under Section 37.255,  
4 Education Code.

5 (e-2) Not later than the second working day after the date  
6 that the juvenile court issues a placement order under Subsection  
7 (e) or (e-1), the juvenile court shall notify the superintendent of  
8 the school district in which the student is enrolled of the  
9 placement.

10 SECTION 9. Section 53.03, Family Code, is amended by adding  
11 Subsections (l), (m), and (n) to read as follows:

12 (l) In a county in which a juvenile justice alternative  
13 education program is operated under Section 37.251, Education Code,  
14 if a child is placed on deferred prosecution under this section and  
15 has been expelled for conduct under Section 37.158, Education Code,  
16 or is accused of engaging in conduct constituting an offense listed  
17 under Section 37.164, Education Code, the conditions of the  
18 deferred prosecution agreement shall require the child to attend  
19 the juvenile justice alternative education program beginning not  
20 later than the second school day after the date the child is placed  
21 on deferred prosecution.

22 (m) In a county in which a juvenile justice alternative  
23 education program is not operated, if a child is placed on deferred  
24 prosecution under this section and has been expelled under Section  
25 37.158, Education Code, or is accused of engaging in conduct  
26 constituting an offense listed under Section 37.164, Education  
27 Code, the conditions of the deferred prosecution agreement shall

1 require the child to attend a program provided for under Section  
2 37.255, Education Code, beginning not later than the second school  
3 day after the date the child is placed on deferred prosecution.

4 (n) Not later than the second working day after the date  
5 that the juvenile court issues a placement order under Subsection  
6 (l) or (m), the juvenile court shall notify the superintendent of  
7 the school district in which the student is enrolled of the  
8 placement.

9 SECTION 10. Section 54.04, Family Code, is amended by  
10 adding Subsections (v), (w), and (x) to read as follows:

11 (v) In a county in which a juvenile justice alternative  
12 education program is operated under Section 37.251, Education Code,  
13 if a child is placed on probation under this section and has been  
14 expelled for conduct under Section 37.158, Education Code, or has  
15 been adjudicated as having engaged in conduct constituting an  
16 offense listed under Section 37.164, Education Code, the conditions  
17 of the probation shall require the child to attend the juvenile  
18 justice alternative education program beginning not later than the  
19 second school day after the date the child is placed on probation.

20 (w) In a county in which a juvenile justice alternative  
21 education program is not operated, if a child is placed on probation  
22 under this section and has been expelled under Section 37.158,  
23 Education Code, or adjudicated as having engaged in conduct  
24 constituting an offense listed under Section 37.164, Education  
25 Code, the conditions of the probation shall require the child to  
26 attend a program provided for under Section 37.255, Education Code,  
27 beginning not later than the second school day after the date the

1 child is placed on probation.

2 (x) Not later than the second working day after the date  
3 that the juvenile court issues the placement order under Subsection  
4 (v) or (w), the juvenile court shall notify the superintendent of  
5 the school district in which the student is enrolled of the  
6 placement.

7 SECTION 11. The following provisions are repealed:

- 8 (1) Article 15.27, Code of Criminal Procedure;
- 9 (2) Section 51.03(g), Family Code; and
- 10 (3) Section 52.041, Family Code.

11 SECTION 12. The changes in law made by this Act apply only  
12 to an offense committed or conduct that occurs on or after the  
13 effective date of this Act. An offense committed or conduct that  
14 occurs before the effective date of this Act is governed by the law  
15 in effect when the offense was committed or the conduct occurred,  
16 and the former law is continued in effect for that purpose. For  
17 purposes of this section, an offense is committed or conduct occurs  
18 before the effective date of this Act if any element of the offense  
19 or violation occurs before the effective date.

20 SECTION 13. Except as otherwise provided by this Act, this  
21 Act applies beginning with the 2007-2008 school year.

22 SECTION 14. This Act takes effect September 1, 2007.