

By: Madden

H.B. No. 1907

A BILL TO BE ENTITLED

1 AN ACT
2 relating to notification requirements concerning offenses
3 committed by students and school district discretion over admission
4 or placement of certain students.

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

6 SECTION 1. Article 15.27, Code of Criminal Procedure, is
7 amended by amending Subsections (a), (a-1), (b), (c), and (g) and
8 adding Subsections (k) and (l) to read as follows:

9 (a) A law enforcement agency that arrests any person or
10 refers a child to the office or official designated by the juvenile
11 board who the agency believes is enrolled as a student in a public
12 primary or secondary school, for an offense listed in Subsection
13 (h), shall attempt to ascertain whether the person is so enrolled.
14 If the law enforcement agency ascertains that the individual is
15 enrolled as a student in a public primary or secondary school, the
16 head of the agency or a person designated by the head of the agency
17 shall orally notify the superintendent or a person designated by
18 the superintendent in the school district in which the student is
19 enrolled of that arrest or referral within 24 hours after the arrest
20 or referral is made, or before ~~on~~ the next school day, whichever
21 is earlier. If the law enforcement agency cannot ascertain whether
22 the individual is enrolled as a student, the head of the agency or a
23 person designated by the head of the agency shall orally notify the
24 superintendent or a person designated by the superintendent in the

1 school district in which the student is believed to be enrolled of
2 that arrest or detention within 24 hours after the arrest or
3 detention, or before [~~on~~] the next school day, whichever is
4 earlier. If the individual is a student, the superintendent or the
5 superintendent's designee shall promptly notify all instructional
6 and support personnel who have responsibility for supervision of
7 the student. All personnel shall keep the information received in
8 this subsection confidential. The State Board for Educator
9 Certification may revoke or suspend the certification of personnel
10 who intentionally violate this subsection. Within seven days after
11 the date the oral notice is given, the head of the law enforcement
12 agency or the person designated by the head of the agency shall mail
13 written notification, marked "PERSONAL and CONFIDENTIAL" on the
14 mailing envelope, to the superintendent or the person designated by
15 the superintendent. The written notification must include the
16 facts contained in the oral notification, the name of the person who
17 was orally notified, and the date and time of the oral notification.
18 Both the oral and written notice shall contain sufficient details
19 of the arrest or referral and the acts allegedly committed by the
20 student to enable the superintendent or the superintendent's
21 designee to determine whether there is a reasonable belief that the
22 student has engaged in conduct defined as a felony offense by the
23 Penal Code. The information contained in the notice shall [~~may~~] be
24 considered by the superintendent or the superintendent's designee
25 in making such a determination.

26 (a-1) The superintendent or a person designated by the
27 superintendent in the school district shall [~~may~~] send to a school

1 district employee having direct supervisory responsibility over
2 the student the information contained in the confidential notice
3 under Subsection (a) [~~if the superintendent or the person~~
4 ~~designated by the superintendent determines that the employee needs~~
5 ~~the information for educational purposes or for the protection of~~
6 ~~the person informed or others~~].

7 (b) On conviction, deferred prosecution, or deferred
8 adjudication or an adjudication of delinquent conduct of an
9 individual enrolled as a student in a public primary or secondary
10 school, for an offense or for any conduct listed in Subsection (h)
11 of this article, the office of the prosecuting attorney acting in
12 the case shall orally notify the superintendent or a person
13 designated by the superintendent in the school district in which
14 the student is enrolled of the conviction or adjudication and
15 whether the student is required to register as a sex offender under
16 Chapter 62. Oral notification must be given within 24 hours of the
17 time of the order or before [~~on~~] the next school day, whichever is
18 earlier. The superintendent shall, within 24 hours of receiving
19 notification from the office of the prosecuting attorney, or before
20 the next school day, whichever is earlier, notify all instructional
21 and support personnel who have regular contact with the student.
22 Within seven days after the date the oral notice is given, the
23 office of the prosecuting attorney shall mail written notice, which
24 must contain a statement of the offense of which the individual is
25 convicted or on which the adjudication, deferred adjudication, or
26 deferred prosecution is grounded and a statement of whether the
27 student is required to register as a sex offender under Chapter 62.

1 (c) A parole, probation, or community supervision office,
2 including a community supervision and corrections department, a
3 juvenile probation department, the paroles division of the Texas
4 Department of Criminal Justice, and the Texas Youth Commission,
5 having jurisdiction over a student described by Subsection (a),
6 (b), or (e) who transfers from a school or is subsequently removed
7 from a school and later returned to a school or school district
8 other than the one the student was enrolled in when the arrest,
9 referral to a juvenile court, conviction, or adjudication occurred
10 shall within 24 hours of learning of the student's transfer or
11 reenrollment, or before the next school day, whichever is earlier,
12 notify the superintendent or a person designated by the
13 superintendent of the school district to which the student
14 transfers or is returned or, in the case of a private school, the
15 principal or a school employee designated by the principal of the
16 school to which the student transfers or is returned of the arrest
17 or referral in a manner similar to that provided for by Subsection
18 (a) or (e)(1), or of the conviction or delinquent adjudication in a
19 manner similar to that provided for by Subsection (b) or (e)(2).
20 The superintendent of the school district to which the student
21 transfers or is returned or, in the case of a private school, the
22 principal of the school to which the student transfers or is
23 returned shall, within 24 hours of receiving notification under
24 this subsection or before the next school day, whichever is
25 earlier, notify all instructional and support personnel who have
26 regular contact with the student.

27 (g) The office of the prosecuting attorney or the office or

1 official designated by the juvenile board shall, before the student
2 returns to school [~~within two working days~~], notify the school
3 district that removed a student to a disciplinary alternative
4 education program under Section 37.006, Education Code, if:

5 (1) prosecution of the student's case was refused for
6 lack of prosecutorial merit or insufficient evidence and no formal
7 proceedings, deferred adjudication, or deferred prosecution will
8 be initiated; or

9 (2) the court or jury found the student not guilty or
10 made a finding the child did not engage in delinquent conduct or
11 conduct indicating a need for supervision and the case was
12 dismissed with prejudice.

13 (k) Oral or written notice required under this article must
14 include all pertinent details of the offense or conduct, including
15 details of any:

16 (1) assaultive behavior or other violence;

17 (2) weapons used in the commission of the offense or
18 conduct; or

19 (3) weapons possessed during the commission of the
20 offense or conduct.

21 (l) If a school district board of trustees learns of a
22 failure by the superintendent of the district or a district
23 principal to provide a notice required under Subsection (a), (a-1),
24 or (b), the board of trustees shall report the failure to the State
25 Board for Educator Certification. If the governing body of a
26 private primary or secondary school learns of a failure by the
27 principal of the school to provide a notice required under

1 Subsection (e), and the principal holds a certificate issued under
2 Subchapter B, Chapter 21, Education Code, the governing body shall
3 report the failure to the State Board for Educator Certification.

4 SECTION 2. Article 15.27(e)(3), Code of Criminal Procedure,
5 is amended to read as follows:

6 (3) The principal of a private school in which the
7 student is enrolled or a school employee designated by the
8 principal shall [~~may~~] send to a school employee having direct
9 supervisory responsibility over the student the information
10 contained in the confidential notice, for the same purposes as
11 described by Subsection (a-1) [~~(d)~~] of this article.

12 SECTION 3. Subchapter A, Chapter 37, Education Code, is
13 amended by adding Section 37.024 to read as follows:

14 Sec. 37.024. DISCRETION OVER ADMISSION OR PLACEMENT OF
15 CERTAIN TRANSFER AND OTHER NEW STUDENTS. (a) Except as provided by
16 Subsection (b), this section applies to a school district that
17 receives notice under Article 15.27(c), Code of Criminal Procedure,
18 regarding a transfer or other new student who enrolls in the
19 district.

20 (b) A school district that receives notice under Article
21 15.27(c), Code of Criminal Procedure, regarding a student who is
22 required to register as a sex offender under Chapter 62, Code of
23 Criminal Procedure, is governed by Subchapter I.

24 (c) A school district to which this section applies may
25 consider the student's conduct that resulted in the notification to
26 the district under Article 15.27(c), Code of Criminal Procedure,
27 and, on the basis of that consideration, may:

1 (1) notwithstanding Section 25.001, decline to admit
2 the student into the public schools of the district if the district
3 determines that the student poses a risk to the district's teachers
4 or students; or

5 (2) admit the student into the public schools of the
6 district and determine:

7 (A) the appropriate placement for the student
8 from among all available educational options, including the regular
9 classroom, a disciplinary alternative education program, a
10 juvenile justice alternative education program, and a program
11 delivered to the student at home; and

12 (B) any reasonable conditions required to be met
13 by the student as a condition of admission.

14 (d) A school district that under this section declines to
15 admit a student or elects to provide educational services through
16 any option other than placement in the regular classroom shall, at
17 the student's request, review the district's determination
18 regarding the student at least annually.

19 (e) To the extent this section conflicts with another
20 provision of this subchapter, this section prevails.

21 SECTION 4. Section 37.024, Education Code, as added by this
22 Act, applies beginning with the 2011-2012 school year.

23 SECTION 5. The changes in law made by this Act apply only to
24 an offense committed or conduct that occurs on or after the
25 effective date of this Act. An offense committed or conduct that
26 occurs before the effective date of this Act is governed by the law
27 in effect when the offense was committed or the conduct occurred,

1 and the former law is continued in effect for that purpose. For
2 purposes of this section, an offense is committed or conduct occurs
3 before the effective date of this Act if any element of the offense
4 or conduct occurs before that date.

5 SECTION 6. This Act takes effect September 1, 2011.