

1-1 By: Madden (Senate Sponsor - Whitmire) H.B. No. 1907  
1-2 (In the Senate - Received from the House April 26, 2011;  
1-3 April 29, 2011, read first time and referred to Committee on  
1-4 Criminal Justice; May 19, 2011, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;  
1-6 May 19, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1907 By: Hinojosa

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to notification requirements concerning offenses  
1-11 committed by students and school district discretion over admission  
1-12 or placement of certain students.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Article 15.27, Code of Criminal Procedure, is  
1-15 amended by amending Subsections (a), (a-1), (b), and (c) and adding  
1-16 Subsections (k), (l), (m), (n), and (o) to read as follows:

1-17 (a) A law enforcement agency that arrests any person or  
1-18 refers a child to the office or official designated by the juvenile  
1-19 board who the agency believes is enrolled as a student in a public  
1-20 primary or secondary school, for an offense listed in Subsection  
1-21 (h), shall attempt to ascertain whether the person is so enrolled.  
1-22 If the law enforcement agency ascertains that the individual is  
1-23 enrolled as a student in a public primary or secondary school, the  
1-24 head of the agency or a person designated by the head of the agency  
1-25 shall orally notify the superintendent or a person designated by  
1-26 the superintendent in the school district in which the student is  
1-27 enrolled of that arrest or referral within 24 hours after the arrest  
1-28 or referral is made, or before ~~on~~ the next school day, whichever  
1-29 is earlier. If the law enforcement agency cannot ascertain whether  
1-30 the individual is enrolled as a student, the head of the agency or a  
1-31 person designated by the head of the agency shall orally notify the  
1-32 superintendent or a person designated by the superintendent in the  
1-33 school district in which the student is believed to be enrolled of  
1-34 that arrest or detention within 24 hours after the arrest or  
1-35 detention, or before ~~on~~ the next school day, whichever is  
1-36 earlier. If the individual is a student, the superintendent or the  
1-37 superintendent's designee shall immediately ~~promptly~~ notify all  
1-38 instructional and support personnel who have responsibility for  
1-39 supervision of the student. All personnel shall keep the  
1-40 information received in this subsection confidential. The State  
1-41 Board for Educator Certification may revoke or suspend the  
1-42 certification of personnel who intentionally violate this  
1-43 subsection. Within seven days after the date the oral notice is  
1-44 given, the head of the law enforcement agency or the person  
1-45 designated by the head of the agency shall mail written  
1-46 notification, marked "PERSONAL and CONFIDENTIAL" on the mailing  
1-47 envelope, to the superintendent or the person designated by the  
1-48 superintendent. The written notification must include the facts  
1-49 contained in the oral notification, the name of the person who was  
1-50 orally notified, and the date and time of the oral notification.  
1-51 Both the oral and written notice shall contain sufficient details  
1-52 of the arrest or referral and the acts allegedly committed by the  
1-53 student to enable the superintendent or the superintendent's  
1-54 designee to determine whether there is a reasonable belief that the  
1-55 student has engaged in conduct defined as a felony offense by the  
1-56 Penal Code. The information contained in the notice shall ~~may~~ be  
1-57 considered by the superintendent or the superintendent's designee  
1-58 in making such a determination.

1-59 (a-1) The superintendent or a person designated by the  
1-60 superintendent in the school district shall ~~may~~ send to a school  
1-61 district employee having direct supervisory responsibility over  
1-62 the student the information contained in the confidential notice  
1-63 under Subsection (a) ~~[if the superintendent or the person~~

2-1 ~~designated by the superintendent determines that the employee needs~~  
 2-2 ~~the information for educational purposes or for the protection of~~  
 2-3 ~~the person informed or others].~~

2-4 (b) On conviction, deferred prosecution, or deferred  
 2-5 adjudication or an adjudication of delinquent conduct of an  
 2-6 individual enrolled as a student in a public primary or secondary  
 2-7 school, for an offense or for any conduct listed in Subsection (h)  
 2-8 of this article, the office of the prosecuting attorney acting in  
 2-9 the case shall orally notify the superintendent or a person  
 2-10 designated by the superintendent in the school district in which  
 2-11 the student is enrolled of the conviction or adjudication and  
 2-12 whether the student is required to register as a sex offender under  
 2-13 Chapter 62. Oral notification must be given within 24 hours of the  
 2-14 time of the order or before [on] the next school day, whichever is  
 2-15 earlier. The superintendent shall, within 24 hours of receiving  
 2-16 notification from the office of the prosecuting attorney, or before  
 2-17 the next school day, whichever is earlier, notify all instructional  
 2-18 and support personnel who have regular contact with the student.  
 2-19 Within seven days after the date the oral notice is given, the  
 2-20 office of the prosecuting attorney shall mail written notice, which  
 2-21 must contain a statement of the offense of which the individual is  
 2-22 convicted or on which the adjudication, deferred adjudication, or  
 2-23 deferred prosecution is grounded and a statement of whether the  
 2-24 student is required to register as a sex offender under Chapter 62.

2-25 (c) A parole, probation, or community supervision office,  
 2-26 including a community supervision and corrections department, a  
 2-27 juvenile probation department, the paroles division of the Texas  
 2-28 Department of Criminal Justice, and the Texas Youth Commission,  
 2-29 having jurisdiction over a student described by Subsection (a),  
 2-30 (b), or (e) who transfers from a school or is subsequently removed  
 2-31 from a school and later returned to a school or school district  
 2-32 other than the one the student was enrolled in when the arrest,  
 2-33 referral to a juvenile court, conviction, or adjudication occurred  
 2-34 shall within 24 hours of learning of the student's transfer or  
 2-35 reenrollment, or before the next school day, whichever is earlier,  
 2-36 notify the superintendent or a person designated by the  
 2-37 superintendent of the school district to which the student  
 2-38 transfers or is returned or, in the case of a private school, the  
 2-39 principal or a school employee designated by the principal of the  
 2-40 school to which the student transfers or is returned of the arrest  
 2-41 or referral in a manner similar to that provided for by Subsection  
 2-42 (a) or (e)(1), or of the conviction or delinquent adjudication in a  
 2-43 manner similar to that provided for by Subsection (b) or (e)(2).  
 2-44 The superintendent of the school district to which the student  
 2-45 transfers or is returned or, in the case of a private school, the  
 2-46 principal of the school to which the student transfers or is  
 2-47 returned shall, within 24 hours of receiving notification under  
 2-48 this subsection or before the next school day, whichever is  
 2-49 earlier, notify all instructional and support personnel who have  
 2-50 regular contact with the student.

2-51 (k) Oral or written notice required under this article must  
 2-52 include all pertinent details of the offense or conduct, including  
 2-53 details of any:

2-54 (1) assaultive behavior or other violence;  
 2-55 (2) weapons used in the commission of the offense or  
 2-56 conduct; or  
 2-57 (3) weapons possessed during the commission of the  
 2-58 offense or conduct.

2-59 (1) If a school district board of trustees learns of a  
 2-60 failure by the superintendent of the district or a district  
 2-61 principal to provide a notice required under Subsection (a), (a-1),  
 2-62 or (b), the board of trustees shall report the failure to the State  
 2-63 Board for Educator Certification. If the governing body of a  
 2-64 private primary or secondary school learns of a failure by the  
 2-65 principal of the school to provide a notice required under  
 2-66 Subsection (e), and the principal holds a certificate issued under  
 2-67 Subchapter B, Chapter 21, Education Code, the governing body shall  
 2-68 report the failure to the State Board for Educator Certification.

2-69 (m) If the superintendent of a school district in which the

3-1 student is enrolled learns of a failure of the head of a law  
3-2 enforcement agency or a person designated by the head of the agency  
3-3 to provide a notification under Subsection (a), the superintendent  
3-4 or principal shall report the failure to notify to the Commission on  
3-5 Law Enforcement Officer Standards and Education.

3-6 (n) If a juvenile court judge or official designated by the  
3-7 juvenile board learns of a failure by the office of the prosecuting  
3-8 attorney to provide a notification required under Subsection (b) or  
3-9 (g), the official shall report the failure to notify to the elected  
3-10 prosecuting attorney responsible for the operation of the office.

3-11 (o) If the supervisor of a parole, probation, or community  
3-12 supervision department officer learns of a failure by the officer  
3-13 to provide a notification under Subsection (c), the supervisor  
3-14 shall report the failure to notify to the director of the entity  
3-15 that employs the officer.

3-16 SECTION 2. Article 15.27(e)(3), Code of Criminal Procedure,  
3-17 is amended to read as follows:

3-18 (3) The principal of a private school in which the  
3-19 student is enrolled or a school employee designated by the  
3-20 principal shall ~~may~~ send to a school employee having direct  
3-21 supervisory responsibility over the student the information  
3-22 contained in the confidential notice, for the same purposes as  
3-23 described by Subsection (a-1) [~~(d)~~] of this article.

3-24 SECTION 3. The changes in law made by this Act apply only to  
3-25 an offense committed or conduct that occurs on or after the  
3-26 effective date of this Act. An offense committed or conduct that  
3-27 occurs before the effective date of this Act is governed by the law  
3-28 in effect when the offense was committed or the conduct occurred,  
3-29 and the former law is continued in effect for that purpose. For  
3-30 purposes of this section, an offense is committed or conduct occurs  
3-31 before the effective date of this Act if any element of the offense  
3-32 or conduct occurs before that date.

3-33 SECTION 4. This Act takes effect September 1, 2011.

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