

SUBJECT: Placement of students who are registered sex offenders in public schools

COMMITTEE: Public Education — favorable, without amendment

VOTE: 6 ayes — Eissler, Zedler, Branch, Hochberg, Olivo, Patrick

0 nays

3 absent — Delisi, Dutton, Mowery

SENATE VOTE: On final passage, April 11 — 30-0

WITNESSES: For — (*Registered, but did not testify:* Ramiro Canales, Texas Association of School Administrators; David Duty, Texas Association of School Boards; Harley Eckhart, Texas Elementary Principals and Supervisors Association; Lindsay Gustafson, Texas Classroom Teachers Association; Elena Lincoln, Association of Texas Professional Educators; Patty Quinzi, Texas Federation of Teachers)

Against — None

BACKGROUND: Code of Criminal Procedure, ch. 62 specifies a list of sex crimes for which offenders must register their home addresses with local law enforcement and periodically verify this information. Under certain circumstances outlined in ch. 62, some offenders, including some juvenile offenders, may ask courts to exempt them from registration requirements or for an early termination of their responsibility to register.

Code of Criminal Procedure, Art. 15.27 requires a law enforcement agency that arrests a public school student for a felony or certain misdemeanor offenses to orally notify the superintendent within 24 hours after the arrest was made, or the next school day. The superintendent must promptly notify all instructional and support personnel who have regular contact with the student.

When a student transfers to a new school or school district, the student's parole or probation officer must orally notify the new school officials of the student's arrest or referral. The new school officials must promptly

notify instructional or support personnel who have contact with the student.

Within seven days of giving oral notice, the law enforcement agency must mail written notification to the superintendent or the superintendent's designee. Both the oral and written notice must contain sufficient details of the arrest or referral and the acts allegedly committed to enable the superintendent to determine whether there is a reasonable belief that the student engaged in the conduct. The superintendent may determine whether to provide the written material to a school district employee if it is needed for educational purposes or for the protection of the informed person or others.

The 26 Texas counties with populations greater than 125,000 are required to work with school districts to establish Juvenile Justice Alternative Education Programs (JJAEPs) for certain students expelled from school for serious on-campus or school-related offenses listed in Education Code, sec. 37.007. These students often are referred to as "mandatory" students. Schools have discretion about expelling and referring additional "discretionary" students. Other students may attend JJAEPs as ordered by a juvenile court, by choice, or under other circumstances.

Under Education Code, sec. 37.008, each school district must provide a disciplinary alternative education program (DAEP). These are out-of-classroom placements of students who have committed serious off-campus offenses that are not school-related, those who commit violations of the student code of conduct, and those who commit certain other misdemeanor offenses on campus. Some DAEPs are on regular campuses, and some are off campus. Placements in DAEPs are required by Education Code, sec. 37.006 for some students or may be at the discretion of the school district according to the local student code of conduct.

DIGEST:

SB 1067 would require school districts, on receiving notice from a law enforcement agency that a student was required to register as a sex offender, to remove the student from the classroom and determine the appropriate placement using criteria outlined in the bill.

The school superintendent, within 24 hours of receiving notice from a prosecuting attorney that a student was required to register as a sex offender, would have to notify all instructional and support personnel who had regular contact with the student. The superintendent also would have

to notify these personnel within 24 hours of being notified of a student's conviction, deferred prosecution, or deferred adjudication for felony offenses and certain misdemeanor offenses.

When a student transferred to a different school, the parole, probation, or community supervision office would have to notify the new school officials of the transfer within 24 hours, and the new school officials would have to notify instructional and support personnel within 24 hours.

A registered sex offender who was under any form of court supervision, including probation, community supervision, or parole, would have to be placed in an appropriate alternative education program for one semester. If a student transferred to another district during this mandatory placement, the receiving district could require the student to complete an additional semester without review of the student's placement or could count any time in the previous alternative placement toward the semester requirement.

Districts would have the option of placing registered sex offenders not under court supervision in an alternative education program for one semester. The district could allow the student to remain in the regular classroom, unless the school board determined that the student's presence threatened the safety of other students or the teacher, would be detrimental to the educational process, or would not be in the best interests of the district's students. The board also would consider these criteria in determining whether a student should be returned to the classroom after a semester in the alternative education program.

At the end of the first semester of a student's placement in an alternative education program, the school board would have to convene a committee to review the student's placement. The committee would have to include:

- a teacher from the student's home campus;
- the student's parole or probation officer or a representative of the local juvenile probation department;
- an instructor from the student's alternative education program;
- a school district designee selected by the board; and
- a school counselor.

The committee by majority vote would have to determine and recommend to the school board whether the student should be returned to the classroom or remain in the alternative education program. The student

would have to remain in the alternative education program at the committee's recommendation unless the board determined that the student's presence in the regular classroom would not threaten the safety of other students or teachers, would not be detrimental to the educational process, and would not be contrary to the best interests of the district's students. If a student had to remain in the alternative education program, the committee would conduct additional reviews before the beginning of each school year.

The placement of students with disabilities would have to comply with the federal Individuals with Disabilities Education Act and the review could be made only by a duly constituted admission, review, and dismissal committee, which could request the assistance of the kind of committee established in the bill for other students.

A student or the student's parent or guardian could appeal a school board's decision to place the student in an alternative education program by requesting a conference with the school board. The conference would be limited to the factual question of whether the student was required to register as a sex offender. A decision by the board would be final and could not be appealed.

The bill would take effect September 1, 2007, and would apply only to offenses committed on or after that date.

**SUPPORTERS
SAY:**

SB 1067 would clarify and strengthen notification laws so that students who were registered sex offenders were not placed in regular classrooms without review, and teachers and other personnel would be notified promptly when a registered sex offender enrolled in their school.

This could help prevent a situation that occurred recently in Austin, in which a teacher was attacked by an 18-year-old student who had a sex offense on his juvenile record. High school officials were unaware of the student's background because of a lag in time in the police department notifying the district of the student's background.

Registered sex offenders should not attend school alongside other students. Placing these students in an alternative education program for at least one semester would help protect students and teachers while still giving the offender access to an education.

OPPONENTS
SAY:

The highly charged atmosphere surrounding sex offenders could lead some review committees to assign students who were registered sex offenders to alternative education programs indefinitely without a serious review of the student's situation. Typically, the quality of education provided by alternative education programs is not comparable to that of regular public schools. Students who are registered sex offenders should be given more avenues to appeal long-term placement in alternative education programs.