Sec. 1. Notices to Law Enforcement Agencies

A principal or designee shall notify local law enforcement if the principal has reasonable grounds to believe that any of the following activities occurred in school, on school property, or at a school-sponsored or school-related activity on or off school property, without regard to whether the activity is investigated by school security officers:

1. Conduct that may constitute an offense listed in Government Code 508.149; deadly conduct, as described by Penal Code 22.05; or a terroristic threat, as described by Penal Code 22.07.
2. The use, sale, or possession of a controlled substance, drug paraphernalia, or marijuana, as defined by Health and Safety Code 481.
3. The possession of any of the weapons or devices listed in Penal Code 46.01(1)– (3), (5) – (7), (9) – (14), or (16).
4. The possession of a weapon as defined by 18 U.S.C. Section 921, in accordance with the Gun-Free Schools Act.
5. Conduct that may constitute a criminal offense under Penal Code 71.02, Engaging in Organized Criminal Activity.
6. Conduct that may constitute a criminal offense for which a student may be expelled under Education Code 37.007(a), (d), or (e).

Notice is not required if the principal reasonably believes that the activity does not constitute a criminal offense.

The principal or designee shall provide the notice to the police department of the municipality in which the school is located. If the school is not in a municipality, the principal or designee shall provide the notice to the sheriff of the county in which the school is located. The report shall include the name and address of each student the person believes may have participated in the activity.

a) Notice to Employees

The principal or designee shall also notify each instructional or support employee of the school who has regular contact with a student whose conduct is the subject of the notice.

Education Code 37.015, .007(e).

b) Report of Conduct Constituting Assault or Harassment

A principal or designee may make a report to any school district police department or the police department of the municipality in which the school is located or, if the school is not in a municipality, the sheriff of the county in which the school is located if, after an investigation is completed, the principal has reasonable grounds to believe that a student engaged in conduct that constitutes assault under Penal Code 22.01 or harassment with electronic communications

under Penal Code 42.07(a)(7). A person who makes a report may include the name and address of each student the person believes may have participated in the conduct.

The principal may designate a school employee, other than a school counselor, who is under the supervision of the principal to make the report.

A person who voluntarily makes a report is immune from civil or criminal liability. A person who takes any action under this provision is immune from civil or criminal liability or disciplinary action resulting from that action. This provision does not create a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides a basis for a cause of action. District employees and volunteers are immune from suit resulting from an act under this provision, including an act under related policies and procedures.

An act by a district employee or volunteer under this provision, including an act under related policies and procedures, is the exercise of judgment or discretion on the part of the employee or volunteer and is not considered to be a ministerial act for purposes of liability of the district or the district's employees.

Education Code 37.0151.

Sec. 2. <u>Notices from Law Enforcement Agencies</u>

As described below, representatives of the juvenile justice system shall provide notice to a district when:

1. A student is arrested or referred to the juvenile board [see Arrest, below];
2. A student is convicted, or receives deferred prosecution or deferred adjudication [see Conviction or Adjudication, below];
3. A student was removed to a disciplinary alternative education program (DAEP) and the criminal case against the student is refused or the student is found not guilty [see Not Guilty/Charges Dropped, below]; or
4. A student on parole, probation, or community supervision transfers into or reenrolls in a district [see Transfer Students, below].

Code of Criminal Procedure 15.27(a), (b), (c), (g).

Local law enforcement shall provide notice to the superintendent if a registered sex offender intends to reside in the district, as set out below. *Code of Criminal Procedure 62.053(e), .053(f)* [See Registered Sex Offenders, below].

A law enforcement agency that receives a report that a child under 11 years of age is missing shall immediately notify each school that the child attended or in which the child was enrolled that the child is missing. *Code of Criminal Procedure 63.020* [See Missing Children, below].

a) Reportable Offenses

Code of Criminal Procedure 15.27 applies to the following offenses:

1. Any felony offense; and
2. The following misdemeanors:
    a. An offense under Penal Code 20.02 (Unlawful Restraint), 21.08 (Indecent Exposure), 22.01 (Assault), 22.05 (Deadly Conduct), 22.07 (Terroristic Threat), or 71.02 (Engaging in Organized Criminal Activity);
    b. The unlawful use, sale, or possession of a controlled substance, drug paraphernalia, or marijuana, as defined by Health and Safety Code Chapter 481; and
    c. The unlawful possession of any of the weapons or devices listed in Penal Code 46.01(1)–(3), (5)–(7), (9)–(14), or (16), or a weapon listed as a prohibited weapon under Penal Code 46.05.

Code of Criminal Procedure 15.27(h).

b) Contents of Notice

Oral or written notice under Code of Criminal Procedure 15.27 must include all pertinent details of the offense or conduct, including details of any:

1. Assaultive behavior or other violence;
2. Weapons used in the commission of the offense or conduct; or
3. Weapons possessed during the commission of the offense or conduct.

In addition to the information above, the law enforcement agency shall provide information relating to the student that is requested for the purpose of conducting a threat assessment or preparing a safety plan relating to that student. A school board may enter into a memorandum of understanding with a law enforcement agency regarding the exchange of information relevant to conducting a threat assessment or preparing a safety plan. Absent a memorandum of understanding, the information requested by the superintendent or the superintendent's designee shall be considered relevant. *Code of Criminal Procedure 15.27(k), (k-1).*

Law enforcement records concerning a child may be inspected or copied by the superintendent of a public school where the child is enrolled only for the purpose of conducting a threat assessment or preparing a safety plan related to the child. *Family Code 58.008(d), (d-1)*

c) Electronic Notice

A person may substitute electronic notice for oral notice where oral notice is required by Code of Criminal Procedure 15.27. If electronic notice is used, any written notice required by article 15.27 is not required. *Code of Criminal Procedure 15.27(i).*

d) Arrest

i. Oral Notice

If a law enforcement agency arrests a person or refers a child to the juvenile board for an offense specified at Reportable Offenses, and the agency believes the person is enrolled as a student in a public school, the head of the agency or designee shall orally notify the superintendent or designee in the district in which the student is enrolled, or believed to be enrolled, of the arrest or referral. The notice shall be provided within 24 hours after the arrest or referral is made or before the next school day, whichever is earlier.

ii. Written Notice

Within seven days after oral notice is given, the head of the law enforcement agency or designee shall mail written notice to the superintendent or designee. The written notice shall include the facts in the oral notice, the name of the person who was orally notified, and the date and time of the oral notice.

Both the oral and written notice shall contain sufficient details of the arrest or referral and the acts allegedly committed by the student to enable a superintendent or designee to determine whether there is a reasonable belief that the student has engaged in conduct defined as a felony offense by the Penal Code or whether it is necessary to conduct a threat assessment or prepare a safety plan related to the student. The information in the notice shall be considered by a superintendent or designee in making such a determination.

Code of Criminal Procedure 15.27(a).

iii. Failure to Provide Notice to District

If the superintendent of a district in which a student is enrolled learns of a failure of the head of a law enforcement agency or designee to provide a notice under Code of Criminal Procedure 15.27(a), the superintendent or principal shall report the failure to the Commission on Law Enforcement Officer Standards and Education. *Code of Criminal Procedure 15.27(m).*

iv. Notice to Employees

A superintendent or designee shall immediately notify all instructional and support personnel who have responsibility for supervision of a student who has been arrested or taken into custody. All personnel shall keep the information received confidential.

A superintendent or designee shall send to an employee having direct supervisory responsibility over the student the information in the confidential notice provided by the law enforcement agency.

v. Failure to Provide Notice to Employees

If a board learns of a failure by the superintendent or a principal to provide a notice required under Code of Criminal Procedure 15.27(a) or (a-1), the board shall report the failure to the State Board for Educator Certification (SBEC). *Code of Criminal Procedure 15.27(a), (a-1), (l).*

e) Conviction or Adjudication

i. Oral Notice

On conviction, deferred prosecution, deferred adjudication, or adjudication of delinquent conduct of a student for an offense or for any conduct specified at Reportable Offenses, the office of the prosecuting attorney shall orally notify a superintendent or designee of the conviction or adjudication and whether the student is required to register as a sex offender. Oral notice must be given within 24 hours of the time of the order or before the next school day, whichever is earlier.

ii. Written Notice

Within seven days after the date the oral notice is given, the office of the prosecuting attorney shall mail written notice, which must contain a statement of the offense of which the individual is convicted or on which the adjudication, deferred adjudication, or deferred prosecution is grounded and a statement of whether the student is required to register as a sex offender.

iii. Notice to Employees

A superintendent or designee shall, within 24 hours of receiving notice from the office of the prosecuting attorney, or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student.

iv. Failure to Provide Notice to Employees

If a board learns of a failure by the superintendent or a principal to provide a notice required under Code of Criminal Procedure 15.27(b), the board shall report the failure to the SBEC. *Code of Criminal Procedure 15.27(b), (l).*

f) Not Guilty/Charges Dropped

The office of the prosecuting attorney or the office or official designated by the juvenile board shall notify the district that removed a student to a (DAEP) if:

1. Prosecution of the student's case was refused for lack of prosecutorial merit or insufficient evidence and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or
2. The court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice.

Notice shall be provided to the district within two working days.

On receipt of the notice, the superintendent or designee shall review the student's placement in the DAEP.

Code of Criminal Procedure *15.27(g);* Education Code *37.006(h).*

g) Transfer Students

If a juvenile justice agency has jurisdiction over a student who is arrested, referred, convicted, or adjudicated for a reportable offense and the student transfers from a school or is subsequently removed from a school and later returned to a school or district other than the one the student was enrolled in when the arrest, referral, conviction, or adjudication occurred, the juvenile justice agency shall notify the superintendent or designee of the district to which the student transfers or is returned.

The juvenile justice agency shall provide notice of an arrest or referral in a manner similar to that provided above, at Arrest. The juvenile justice agency shall provide notice of a conviction or delinquent adjudication in a manner similar to that provided above at Conviction or Adjudication. In either case, notice shall be provided within 24 hours of learning of the student's transfer or reenrollment, or before the next school day, whichever is earlier.

The superintendent of the district to which the student transfers or is returned shall, within 24 hours of receiving notice or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student. *Code of Criminal Procedure 15.27(c)*.

Sec. 3. <u>Registered Sex Offenders</u>

The local law enforcement authority shall immediately provide notice to the superintendent of the district in which a person subject to registration as a sex offender intends to reside, by mail to the office of the superintendent, as set out below. *Code of Criminal Procedure 62.053(e), .053(f).*

A local law enforcement authority shall provide notice to a superintendent regarding a registered sex offender only if:

1. The victim was at the time of the offense a child younger than 17 years of age or a student enrolled in a public or private secondary school;
2. The person subject to registration is a student enrolled in a public or private secondary school; or
3. The basis on which the person is subject to registration is a conviction, deferred adjudication, or adjudication of delinquent conduct for an offense under Penal Code 43.25 (Sexual Performance by a Child) or 43.26 (Possession or Promotion of Child Pornography), or a substantially similar offense.

A local law enforcement authority may not provide notice to a superintendent if the basis for the notice is a conviction, deferred adjudication, or adjudication of delinquent conduct for an offense under Section 25.02, Penal Code (Prohibited Sexual Conduct, relating to incest), or a substantially similar offense. *Code of Criminal Procedure 62.054.*

On receipt of the notice from law enforcement regarding a registered sex offender, a superintendent shall release the information in the notice to appropriate district personnel, including peace officers and security personnel, principals, nurses, and counselors. *Code of Criminal Procedure 62.053(e), .055(f).*

Sec. 4. <u>Missing Children</u>

a) Duty to Flag Records

Upon receipt of notification from a law enforcement agency or the missing children and missing persons information clearinghouse that a child under 11 years of age who attended or who is enrolled in the school is missing, the school shall flag the child's records and maintain the records in its possession so that on receipt of a request regarding the child, the school will be able to notify law enforcement or the missing children and missing persons information clearinghouse that a request for a flagged record has been made. *Code of Criminal Procedure 63.020(c), .021.*

b) Request in Person

When a request for a flagged record is made in person, the school may not advise the requesting party that the request concerns a missing child and shall:

1. Require the person requesting the flagged record to complete a form stating the person's name, address, telephone number, and relationship to the child for whom a request is made, and the name, address, and birth date of the child;
2. Obtain a copy of the requesting party's driver's license or other photographic identification, if possible;
3. If the request is for a birth certificate, inform the requesting party that a copy of a certificate will be sent by mail; and
4. Immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and include a physical description of the requesting party, the identity and address of the requesting party, and a copy of the requesting party's driver's license or other photographic identification.

After providing the information listed above, the school shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

c) Request in Writing

When a request for a flagged record is made in writing, the school may not advise the requesting party that the request concerns a missing child and shall immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and provide to the law enforcement agency a copy of the written request. After providing the notification, the school shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

Code of Criminal Procedure 63.021(d).

d) Removal of Flag

On the return of a missing child under 11 years of age, the law enforcement agency shall notify each school that has maintained flagged records for the child that the child is no longer missing. On receipt of this notification, the school shall remove the flag from the records.

A school that has reason to believe that a missing child has been recovered may request confirmation that the missing child has been recovered from the appropriate law enforcement agency or the missing children and missing persons information clearinghouse. If a response is not received after the 45th day after the date of the request for confirmation, the school may remove the flag from the record and shall inform the law enforcement agency or the missing children and missing persons information clearinghouse that the flag has been removed.

Code of Criminal Procedure 63.022.