

CHAPTER 461

H.B. No. 23

AN ACT

relating to communications between law enforcement authorities and school officials about certain crimes or gang activities; providing a penalty.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 15, Code of Criminal Procedure, is amended by adding Article 15.27 to read as follows:

Art. 15.27. NOTIFICATION TO SCHOOLS REQUIRED. (a) A law enforcement agency that arrests or takes into custody as provided by Chapter 52, Family Code, an individual who the agency knows or believes is enrolled as a student in a public primary or secondary school, for an offense listed in Subsection (h) of this article, shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled or believed to be enrolled of that arrest or detention within 24 hours after the arrest or detention, or on the next school day. Within seven days after the date the oral notice is given, the law enforcement agency shall mail written notification, marked "PERSONAL and CONFIDENTIAL" on the mailing envelope, to the superintendent or the person designated by the superintendent. The written notification must have the following printed on its face in large, bold letters:

"WARNING: The information contained in this notice is intended only to inform appropriate school personnel of an arrest or detention of a student believed to be enrolled in this school. An arrest or detention should not be construed as proof that the student is guilty. Guilt is determined in a court of law. THE INFORMATION CONTAINED IN THIS NOTICE IS CONFIDENTIAL!"

(b) On conviction or on an adjudication of delinquent conduct of an individual enrolled as a student in a public primary or secondary school, for an offense or for any conduct listed in Subsection (h) of this article, the office of the prosecuting attorney acting in the case shall notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of the conviction or adjudication. Oral notification must be given within 24 hours of the time of the determination of guilt, or on the next school day. 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 is grounded.

(c) A parole or probation office having jurisdiction over a student described by Subsection (a), (b), or (e) of this article who transfers from a school or is subsequently removed from a school and later returned to a school or school district other than the one the student was enrolled in when the arrest, detention, conviction, or adjudication occurred shall notify the

new school officials of the arrest or detention in a manner similar to that provided for by Subsection (a) or (e)(1) of this article, or of the conviction or delinquent adjudication in a manner similar to that provided for by Subsection (b) or (e)(2) of this article.

(d) The superintendent or a person designated by the superintendent in the school district may send to a school district employee having direct supervisory responsibility over the student the information contained in the confidential notice if the superintendent or the person designated by the superintendent determines that the school district employee needs the information for educational purposes or for the protection of the person informed or others.

(e)(1) A law enforcement agency that arrests or detains an individual that the law enforcement agency knows or believes is enrolled as a student in a private primary or secondary school shall make the oral and written notifications described by Subsection (a) of this article to the principal or a school employee designated by the principal of the school in which the student is enrolled.

(2) On conviction or an adjudication of delinquent conduct of an individual enrolled as a student in a private primary or secondary school, the office of prosecuting attorney shall make the oral and written notifications described by Subsection (b) of this article to the principal or a school employee designated by the principal of the school in which the student is enrolled.

(3) The principal of a private school in which the student is enrolled or a school employee designated by the principal may send to a school employee having direct supervisory responsibility over the student the information contained in the confidential notice, for the same purposes as described by Subsection (d) of this article.

(f) A person who receives information under this article may not disclose the information except as specifically authorized by this article. A person who intentionally violates this article commits an offense. An offense under this subsection is a Class C misdemeanor.

(g) On receipt of a notice under this article, a school official may take the precautions necessary to prevent further violence in the school, on school property, or at school-sponsored or school-related activities on or off school property, but may not penalize a student solely because a notification is received about the student.

(h) This article applies to:

(1) an offense listed in Section 8(c), Article 42.18, Code of Criminal Procedure; reckless conduct, as described by Section 22.05, Penal Code; or a terroristic threat, as described by Section 22.07, Penal Code;

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

(3) the unlawful possession of any of the weapons or devices listed in Sections 46.01(1)–(14) or (16), Penal Code; or a weapon listed as a prohibited weapon under Section 46.06, Penal Code; or

(4) a criminal offense under Section 71.02, Penal Code.

SECTION 2. Subchapter I, Chapter 21, Education Code, is amended by adding Section 21.303 to read as follows:

Sec. 21.303. REPORTS TO LOCAL LAW ENFORCEMENT; LIABILITY. *(a) The principal of a public or private primary or secondary school, or a person designated by the principal under Subsection (d) of this section, if the designation has been made, shall notify the school district police department if one exists and 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 the principal has reasonable grounds to believe that any of the following activities occur 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 Section 8(c), Article 42.18, Code of Criminal Procedure; reckless conduct, as described by Section 22.05, Penal Code; or a terroristic threat, as described by Section 22.07, Penal Code;

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

(3) the possession of any of the weapons or devices listed in Sections 46.01(1)–(14) or (16), Penal Code; or a weapon listed as a prohibited weapon under Section 46.06, Penal Code; or

(4) conduct that may constitute a criminal offense under Section 71.02, Penal Code.

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

(c) A notification is not required under Subsection (a) of this section if the person reasonably believes that the activity does not constitute a criminal offense.

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

(e) A person is not liable in civil damages for reporting in good faith as required by this section.

SECTION 3. Sections 51.14(a) and (d), Family Code, are amended to read as follows:

(a) Except as provided by Subsection (e) of this section, or by Article 15.27, Code of Criminal Procedure, all files and records of a juvenile court, a clerk of court, or a prosecuting attorney relating to a child who is a party to a proceeding under this title are open to inspection only by:

(1) the judge, probation officers, and professional staff or consultants of the juvenile court;

(2) an attorney for a party to the proceeding;

(3) a public or private agency or institution providing supervision of the child by arrangement of the juvenile court, or having custody of the child under juvenile court order; or

(4) with leave of juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

(d) Except as provided by Article 15.27, Code of Criminal Procedure, and except [Except] for files and records relating to a charge for which a child is transferred under Section 54.02 of this code to a criminal court for prosecution, the law-enforcement files and records are not open to public inspection nor may their contents be disclosed to the public, but inspection of the files and records is permitted by:

(1) a juvenile court having the child before it in any proceeding;

(2) an attorney for a party to the proceeding; and

(3) law-enforcement officers when necessary for the discharge of their official duties.

SECTION 4. Chapter 21, Education Code, is amended by adding Section 21.3031 to read as follows:

Sec. 21.3031. DESTRUCTION OF CERTAIN RECORDS. Information received by a school district under Article 15.27, Code of Criminal Procedure, may not be attached to the permanent academic file of the student who is the subject of the report. The school district shall destroy the information at the end of the academic year in which the report was filed.

SECTION 5. This Act takes effect September 1, 1993, and applies only to an arrest, detention, conviction, or delinquent adjudication, suspected criminal activity, or street-gang-related activity that occurs on or after that date.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 20, 1993, by a non-record vote; the House concurred in Senate amendments to H.B. No. 23 on May 22, 1993, by a non-record vote; passed by the Senate, with amendments, on May 14, 1993, by a viva-voce vote.

Approved June 9, 1993.

Effective Sept. 1, 1993.