

EDUCATION CODE
TITLE 2. PUBLIC EDUCATION
SUBTITLE G. SAFE SCHOOLS
CHAPTER 37. DISCIPLINE; LAW AND ORDER
SUBCHAPTER E-1. PENAL PROVISIONS

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§ 37.141. DEFINITIONS.

In this subchapter:

- (1) "Child" has the meaning assigned by Article 45.058(h), Code of Criminal Procedure, except that the person must also be a student.
- (2) "School offense" means an offense committed by a child enrolled in a public school that is a Class C misdemeanor other than a traffic offense and that is committed on property under the control and jurisdiction of a school district.

§ 37.142. CONFLICT OF LAW.

To the extent of any conflict, this subchapter controls over any other law applied to a school offense alleged to have been committed by a child.

§ 37.143. CITATION PROHIBITED; CUSTODY OF CHILD.

- (a) A peace officer may not issue a citation to a child who is alleged to have committed a school offense.
- (b) This subchapter does not prohibit a child from being taken into custody under Section 52.01, Family Code.

§ 37.144. GRADUATED SANCTIONS FOR CERTAIN SCHOOL OFFENSES.

(a) A school district that commissions peace officers under Section 37.081 may develop a system of graduated sanctions that the school district may require to be imposed on a child before a complaint is filed under Section 37.145 against the child for a school offense that is an offense under Section 37.124 or 37.126 or under Section 42.01(a)(1), (2), (3), (4), or (5), Penal Code. A system adopted under this section must include multiple graduated sanctions. The system may require:

- (1) a warning letter to be issued to the child and the child's parent or guardian that specifically states the child's alleged school offense and explains the consequences if the child engages in additional misconduct;

(2) a behavior contract with the child that must be signed by the child, the child's parent or guardian, and an employee of the school and that includes a specific description of the behavior that is required or prohibited for the child and the penalties for additional alleged school offenses, including additional disciplinary action or the filing of a complaint in a criminal court;

(3) the performance of school-based community service by the child; and

(4) the referral of the child to counseling, community-based services, or other in-school or out-of-school services aimed at addressing the child's behavioral problems.

(b) A referral made under Subsection (a)(4) may include participation by the child's parent or guardian if necessary.

§ 37.145. COMPLAINT.

If a child fails to comply with or complete graduated sanctions under Section 37.144, or if the school district has not elected to adopt a system of graduated sanctions under that section, the school may file a complaint against the child with a criminal court in accordance with Section 37.146.

§ 37.146. REQUISITES OF COMPLAINT.

(a) A complaint alleging the commission of a school offense must, in addition to the requirements imposed by Article 45.019, Code of Criminal Procedure:

(1) be sworn to by a person who has personal knowledge of the underlying facts giving rise to probable cause to believe that an offense has been committed; and

(2) be accompanied by a statement from a school employee stating:

(A) whether the child is eligible for or receives special services under Subchapter A, Chapter 29; and

(B) the graduated sanctions, if required under Section 37.144, that were imposed on the child before the complaint was filed.

(b) After a complaint has been filed under this subchapter, a summons may be issued under Articles 23.04 and 45.057(e), Code of Criminal Procedure.

§ 37.147. PROSECUTING ATTORNEYS.

An attorney representing the state in a court with jurisdiction may adopt rules pertaining to the filing of a complaint under this subchapter that the state considers necessary in order to:

- (1) determine whether there is probable cause to believe that the child committed the alleged offense;
- (2) review the circumstances and allegations in the complaint for legal sufficiency; and
- (3) see that justice is done.