

Texas Code of Criminal Procedure

Art. 2.13. [37] [44] [45] DUTIES AND POWERS.

- (a) It is the duty of every peace officer to preserve the Peace within the officer's jurisdiction. To effect this purpose, the officer shall use all lawful means.
- (b) The officer shall:
 - (1) in every case authorized by the provisions of this Code, interfere without warrant to prevent or suppress crime;
 - (2) execute all lawful process issued to the officer by any magistrate or court;
 - (3) give notice to some magistrate of all offenses committed within the officer's jurisdiction, where the officer has good reason to believe there has been a violation of the penal law; and
 - (4) arrest offenders without warrant in every case where the officer is authorized by law, in order that they may be taken before the proper magistrate or court and be tried.
- (c) It is the duty of every officer to take possession of a child under Article 63.009(g).

Art. 2.27. INVESTIGATION OF CERTAIN REPORTS ALLEGING ABUSE.

(a) On receipt of a report that is assigned the highest priority in accordance with rules adopted by the Department of Protective and Regulatory Services under Section 261.301(d), Family Code, and that alleges an immediate risk of physical or sexual abuse of a child that could result in the death of or serious harm to the child by a person responsible for the care, custody, or welfare of the child, a peace officer from the appropriate local law enforcement agency shall investigate the

report jointly with the department or with the agency responsible for conducting an investigation under Subchapter E, Chapter 261, Family Code. As soon as possible after being notified by the department of the report, but not later than 24 hours after being notified, the peace officer shall accompany the department investigator in initially responding to the report.

(b) On receipt of a report of abuse or neglect or other complaint of a resident of a nursing home, convalescent home, or other related institution under Section 242.126(c)(1), Health and Safety Code, the appropriate local law enforcement agency shall investigate the report as required by Section 242.135, Health and Safety Code.

Art. 15.27. NOTIFICATION TO SCHOOLS REQUIRED.

(a) A law enforcement agency that arrests any person or refers a child to the office or official designated by the juvenile board who the agency believes is enrolled as a student in a public primary or secondary school, for an offense listed in Subsection (h), shall attempt to ascertain whether the person is so enrolled. If the law enforcement agency ascertains that the individual is enrolled as a student in a public primary or secondary school, the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of that arrest or referral within 24 hours after the arrest or referral is made, or on the next school day. If the law enforcement agency cannot ascertain whether the individual is enrolled as a student, the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is believed to be enrolled of that arrest or detention within 24 hours after the arrest or detention, or on the next school day. If the individual is a student, the superintendent shall promptly notify all instructional and

support personnel who have responsibility for supervision of the student. All personnel shall keep the information received in this subsection confidential. The State Board for Educator Certification may revoke or suspend the certification of personnel who intentionally violate this subsection. 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. 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 the superintendent or the superintendent's 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. The information contained in the notice may be considered by the superintendent or the superintendent's designee in making such a determination.

(b) On conviction, deferred prosecution, or deferred adjudication or 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 orally 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 order or on the next school day. The superintendent shall promptly notify all instructional and support personnel who have regular contact with the student. 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.

(c) A parole or probation office having jurisdiction over a student described by Subsection (a), (b), or (e) 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, referral to a juvenile court, conviction, or adjudication occurred shall notify the new school officials of the arrest or referral in a manner similar to that provided for by Subsection (a) or (e)(1), or of the conviction or delinquent adjudication in a manner similar to that provided for by Subsection (b) or (e)(2). The new school officials shall promptly notify all instructional and support personnel who have regular contact with the student.

(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 refers to a juvenile court under Chapter 52, Family Code, an individual who 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) to the principal or a school employee designated by the principal of the school in which the student is enrolled.

(2) On conviction, deferred prosecution, or deferred adjudication 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) The office of the prosecuting attorney or the office or official designated by the juvenile board shall, within two working days, notify the school district that removed a student to a disciplinary alternative education program under Section 37.006, Education Code, 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.

(h) This article applies to any felony offense and the following misdemeanors:

(1) an offense under Section 20.02, 21.08, 22.01, 22.05, 22.07, or 71.02, 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; or

(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 46.05, Penal Code.

(i) A person may substitute electronic notification for oral notification where oral notification is required by this article. If electronic notification is substituted for oral notification, any written notification required by this article is not required.

Art. 45.058. CHILDREN TAKEN INTO CUSTODY.

(a) A child may be released to the child's parent, guardian, custodian, or other responsible adult as provided by Section 52.02(a)(1), Family Code, if the child is taken into custody for an offense that a justice or municipal court has jurisdiction of under Article 4.11 or 4.14, other than public intoxication.

(b) A child described by Subsection (a) must be taken only to a place previously designated by the head of the law enforcement agency with custody of the child as an appropriate place of nonsecure custody for children unless the child:

- (1) is released under Section 52.02(a)(1), Family Code; or
- (2) is taken before a justice or municipal court.

(c) A place of nonsecure custody for children must be an unlocked, multipurpose area. A lobby, office, or interrogation room is suitable if the area is not designated, set aside, or used as a secure detention area and is not part of a secure detention area. A place of nonsecure custody may be a juvenile processing office designated under Section 52.025, Family Code, if the area is not locked when it is used as a place of nonsecure custody.

(d) The following procedures shall be followed in a place of nonsecure custody for children:

- (1) a child may not be secured physically to a cuffing rail, chair, desk, or other stationary object;
- (2) the child may be held in the nonsecure facility only

long enough to accomplish the purpose of identification, investigation, processing, release to parents, or the arranging of transportation to the appropriate juvenile court, juvenile detention facility, secure detention facility, justice court, or municipal court;

(3) residential use of the area is prohibited; and

(4) the child shall be under continuous visual supervision by a law enforcement officer or facility staff person during the time the child is in nonsecure custody.

(e) Notwithstanding any other provision of this article, a child may not, under any circumstances, be detained in a place of nonsecure custody for more than six hours.

(f) A child taken into custody for an offense that a justice or municipal court has jurisdiction of under Article 4.11 or 4.14, other than public intoxication, may be presented or detained in a detention facility designated by the juvenile court under Section 52.02(a)(3), Family Code, only if:

(1) the child's non-traffic case is transferred to the juvenile court by a justice or municipal court under Section 51.08(b), Family Code; or

(2) the child is referred to the juvenile court by a justice or municipal court for contempt of court under Article 45.050.

(g) A law enforcement officer may issue a field release citation as provided by Article 14.06 in place of taking a child into custody for a traffic offense or an offense, other than public intoxication, punishable by fine only.

(h) In this article, "child" means a person who is:

(1) at least 10 years of age and younger than 17 years of age; and

(2) charged with or convicted of an offense that a justice or municipal court has jurisdiction of under Article 4.11 or 4.14.

Art. 45.059. CHILDREN TAKEN INTO CUSTODY FOR VIOLATION OF JUVENILE CURFEW OR ORDER.

(a) A peace officer taking into custody a person younger than 17 years of age for violation of a juvenile curfew ordinance of a municipality or order of the commissioners court of a county shall, without unnecessary delay:

- (1) release the person to the person's parent, guardian, or custodian;
- (2) take the person before a justice or municipal court to answer the charge; or
- (3) take the person to a place designated as a juvenile curfew processing office by the head of the law enforcement agency having custody of the person.

(b) A juvenile curfew processing office must observe the following procedures:

- (1) the office must be an unlocked, multipurpose area that is not designated, set aside, or used as a secure detention area or part of a secure detention area;
- (2) the person may not be secured physically to a cuffing rail, chair, desk, or stationary object;
- (3) the person may not be held longer than necessary to accomplish the purposes of identification, investigation, processing, release to a parent, guardian, or custodian, or arrangement of transportation to school or court;
- (4) a juvenile curfew processing office may not be designated or intended for residential purposes;
- (5) the person must be under continuous visual supervision by a peace officer or other person during the time the person is in the juvenile curfew processing office; and
- (6) a person may not be held in a juvenile curfew processing office for more than six hours.

(c) A place designated under this article as a juvenile curfew processing office is not subject to the approval of the

juvenile board having jurisdiction where the governmental entity is located.

CHAPTER 61. COMPILATION OF INFORMATION PERTAINING TO CRIMINAL
COMBINATIONS AND CRIMINAL STREET GANGS

Art. 61.01. DEFINITIONS. In this chapter:

- (1) "Combination" and "criminal street gang" have the meanings assigned by Section 71.01, Penal Code.
- (2) "Child" has the meaning assigned by Section 51.02, Family Code.
- (3) "Criminal information" means facts, material, photograph, or data reasonably related to the investigation or prosecution of criminal activity.
- (4) "Criminal activity" means conduct that is subject to prosecution.
- (5) "Criminal justice agency" has the meaning assigned by Article 60.01 and also means a municipal or county agency, or school district law enforcement agency, that is engaged in the administration of criminal justice under a statute or executive order.

Art. 62.054. CIRCUMSTANCES REQUIRING NOTICE TO
SUPERINTENDENT OR SCHOOL ADMINISTRATOR.

(a) A local law enforcement authority shall provide notice to the superintendent and each administrator under Article 62.053(e) or 62.055(f) 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, a deferred adjudication, or an adjudication of

delinquent conduct for an offense under Section 43.25 or 43.26, Penal Code, or an offense under the laws of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar to the elements of an offense under either of those sections.

(b) A local law enforcement authority may not provide notice to the superintendent or any administrator under Article 62.053(e) or 62.055(f) if the basis on which the person is subject to registration is a conviction, a deferred adjudication, or an adjudication of delinquent conduct for an offense under Section 25.02, Penal Code, or an offense under the laws of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar to the elements of an offense under that section.