

**HOUSE SELECT INTERIM COMMITTEE ON SEX OFFENDER STATUTES  
TEXAS HOUSE OF REPRESENTATIVES  
INTERIM REPORT 2004**

**A REPORT TO THE  
HOUSE OF REPRESENTATIVES  
79TH TEXAS LEGISLATURE**

**TERRY KEEL  
CHAIRMAN**

**COMMITTEE CLERK  
DAMIAN DUARTE**

**ASSISTANT COMMITTEE CLERK  
RACHAEL SCHREIBER**





Select Interim Committee On  
Sex Offender Statutes

January 5, 2005

Terry Keel  
Chairman

P.O. Box 2910  
Austin, Texas 78768-2910

The Honorable Tom Craddick  
Speaker, Texas House of Representatives  
Members of the Texas House of Representatives  
Texas State Capitol, Rm. 2W.13  
Austin, Texas 78701

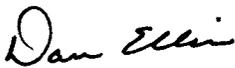
Dear Mr. Speaker and Fellow Members:

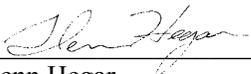
The Select Interim Committee on Sex Offender Statutes of the Seventy-Eighth Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Seventy-Ninth Legislature.

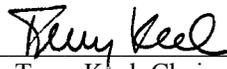
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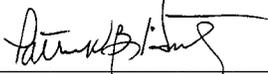
  
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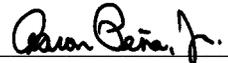
  
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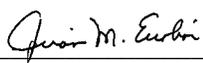
  
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Juan Escobar

Ray Allen  
Vice Chair

Members: Pat Haggarty, Joe Driver, Terri Hodge, Dan Ellis, Aaron Pena, Glenn Hegar, Juan Escobar

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## INTRODUCTION

On November 4, 2003, House Speaker Tom Craddick created the House Select Interim Committee on Sex Offender Statutes. The Speaker appointed the following nine members to the committee:

Representative Terry Keel, Chair  
Representative Ray Allen, Vice Chair  
Representative Joe Driver  
Representative Dan Ellis  
Representative Juan Escobar  
Representative Pat Haggarty  
Representative Glenn Hegar  
Representative Terri Hodge  
Representative Aaron Pena

Since 1991, when sex offender registration was enacted in Texas, the program has been amended numerous times. Many of the major changes to the program are a result of additional federal requirements placed on states in return for securing Byrne grant funding. Originally, the program was geared toward alerting law enforcement to the presence of sex offenders. However, over the years it has been expanded to include public notification to make citizens aware when sex offenders move to their communities. As a result of the numerous amendments to Chapter 62 over the course of a dozen years, there is a very real concern that the registration program has proved to be cumbersome and difficult to manage. For this reason, the Speaker created this select interim committee to examine Chapter 62 to determine what changes, if any, are needed to streamline and clarify its provisions.

During the interim the committee held a public hearing and committee members and staff met with many organizations, members of the public, and other interested parties to gather information and solicit ideas regarding the sex offender registration program. The committee members would like to thank the many citizens, public officials, state agency personnel, and organization members who provided the committee with testimony and various forms of assistance on the interim study charge.



## **HOUSE SELECT INTERIM COMMITTEE ON SEX OFFENDER STATUTES**

### **INTERIM STUDY CHARGES**

- Examine Chapter 62 of the Code of Criminal Procedure to streamline and clarify the statutory provisions relating to the Sex Offender Registration Program.



## BACKGROUND

The Texas sex offender registration law was created in 1991 (S.B. 259, Session Laws, 72<sup>nd</sup> Legislature, Ch. 572, Sec. 1). At its inception, sex offender registration was a rather simple, straight-forward concept.

The duty to register applied to only a few criminal offenses, registration information was accessible only by law enforcement, the duty to register expired upon the discharge of probation or parole (or age 21 for juveniles), and offenders could be exempted from registration for good cause. The Legislature did all of this in a concise statute that contained less than 1,000 words.

Since 1991, however, the sex offender registration law has been amended by every subsequent Texas Legislature. Now located in Chapter 62 of the Code of Criminal Procedure (as of 1997), these statutes have grown to exceed *over 14,000 words* in length. With no end to this expansion in sight, it has become clear that unless significant changes are made, the day is fast approaching when Chapter 62 will figuratively collapse under the weight of too many legislative changes.

For this reason, the Speaker created this Select Interim Committee on Sex Offender Statutes (“Committee”). The charge of the Committee is:

*“Examine Chapter 62 of the Code of Criminal Procedure to streamline and clarify the statutory provisions relating to the Sex Offender Registration Program.”*

## INTERIM HEARING

### *Witness List*

<b>Shannon Edmonds</b>	<i>Texas District and County Attorneys Association</i>
<b>Angie Klein</b>	<i>Texas Department of Public Safety</i>
<b>Raul Ortegon</b>	<i>Austin Police Department</i>
<b>Allison Taylor</b>	<i>Council on Sex Offender Treatment</i>
<b>Matthew Ferrara, Ph.D</b>	<i>Council on Sex Offender Treatment</i>
<b>Victoria Hilton</b>	<i>Texas Association Against Sexual Assault</i>
<b>Carrol Montgomery</b>	<i>Member of the Public</i>
<b>Sue Montgomery</b>	<i>Member of the Public</i>
<b>Richard Jones</b>	<i>Member of the Public</i>

### *Witness Testimony*

The House Select Interim Committee on Sex Offender Statutes met in a public hearing on Tuesday May 11, 2004 at 12:26 p.m. in Room E2.012, Capitol Extension.

**Shannon Edmonds**, representing the Texas District and County Attorneys Association, began his testimony by presenting Committee members with an overview of sex offender registration laws in Texas. Mr. Edmonds emphasized that the current sex offender registration law is complex, due to the numerous changes made over the last decade. He also indicated that because these changes have been implemented in a piecemeal fashion, the current law does not make registration requirements clear, easy to follow and easy to enforce. Mr. Edmonds also informed the committee that his organization has received feedback from several prosecutors stating that the current statute is an impediment to managing

sex offenders rather than being an effective tool to prevent recidivism.

After completing his presentation on the background of the current statute, Mr. Edmonds presented the Committee with suggested changes to the statute that TDCAA has collected from various prosecutors and law enforcement agencies. He pointed to a new sex offense passed by the 78th Legislature that is not included as an offense requiring registration, the improper sexual relationship of a student and a teacher. He indicated that this is an example of how details are overlooked when sex offender registration laws are amended in a piecemeal fashion. An additional suggestion is to correct the statute regarding a situation where a sex offense is attempted but not completed and thus does not require the perpetrator to register as a sex offender. He also stated that prosecutors would be amenable to continuing the recent legislative efforts to relax registration requirements on juvenile or youthful offenders involved in underage consensual sex.

Mr. Edmonds further expressed the interest of some prosecutors to provide courts with the ability to review certain lifetime registrants after ten years with the possibility of reducing or eliminating the registration requirement. It is felt that this may encourage offenders to comply with the registration requirements and may enable local police departments to focus their attention on the offenders who are the most dangerous to the public, rather than those who have a history of good behavior. Finally, Mr. Edmonds suggested that it may be worthwhile to recodify the current statute in an effort to bring uniformity and to resolve minor problems that have crept into the sex offender registration laws.

**Angie Klein**, Manager of Criminal Justice Information Systems for the Department of Public Safety, provided the committee with the current sex offender statistics that DPS is charged with monitoring: there are 42,691 total registered sex offenders in Texas, of those 25 have been civilly committed, 4,049 have been classified as high-risk, 10,962 have been classified as moderate-risk, 3,207 have been classified as low-risk, and 24,448 offenders currently have no risk level assigned. Ms. Klein explained that currently when a sex offender is released from an institution or placed on probation, they are required to complete a registration form and send it to DPS along with a copy to the local law enforcement agency located in the city where they plan to reside. Ms. Klein also made the following observations: juveniles who are 16 years of age or younger and who commit a "sexually violent offense" are not eligible for life-time registration; although DPS is required to determine which sex offenses committed out of state are comparable to Texas statutes for the purpose of registering an out of state offender, this process is complex and often time consuming, which may result in the determination being delayed; and when an offender possesses two residences, state law does not dictate which residence an offender should register as his primary residence.

**Raul Ortegon**, an officer with the Austin Police Department, who monitors sex offenders, reported that offenders released from the Texas Department of Criminal Justice without identification are currently unable to use the TDCJ provided identification card for registration purposes because DPS does not accept this as valid identification. Mr. Ortegon also expressed his concern over offenders pleading down to a "failing to register" charge because subsequent offenses for failing to register are not able to be enhanced due to the previous charge. He also stated that when offenders are released from prison there is no way to track them, should they indicate that they will live in one city and then move to another.

**Allison Taylor** and **Matthew Ferrara, Ph.D**, from the Council on Sex Offender Treatment, advocated for increased resources for high-risk offenders. They also advocated for a more progressive approach to assessing sex offenders. They also argued that the current method, the Static 99, is not as effective in identifying high-risk sex offenders as would be the use of a Static 99 in combination with a sexual history polygraph and a penile plethysmograph. They stated that the use of such a procedure would better dictate who needs to be registered as a sex offender and for what duration.

**Tori Hilton**, representing the Texas Association Against Sexual Assault, expressed her organization's view that the current program and its notification features create a false sense of security because the vast majority of sex offenders have not been apprehended or required to register. In actuality, approximately 9% of all sex offenders are estimated to be registered. She advocated for increased educational information about sexual assault to be included in the current notification procedures.

**Carrol and Sue Montgomery**, the parents of a registered sex offender, expressed displeasure with the current risk assessment method, the Static 99, stating that the current method places an obstacle on youthful offender because it penalizes those who do not have much history of employment and stable relationships. They further expressed their belief that probation is too restrictive and does not allow their family to spend holidays together because there may be children at the gatherings. They would also like to establish a procedure in the statute that allows for some offenders to be removed from the registry.

**Richard Jones**, a parent of a registered sex offender, echoed the sentiments expressed by the Montgomery's and expressed his opinion that persons on deferred adjudication should be treated differently than those who are convicted. He also expressed a desire to allow courts to remove offenders from the registry.



## FINDINGS OF THE COMMITTEE

Chapter 62 of the Code of Criminal Procedure is becoming too complex and confusing to operate as originally intended. The complexity of Chapter 62 presents problems for everyone involved in the sex offender registration process—community supervision and parole officers, registration officials at the Department of Public Safety and local law enforcement agencies, prosecutors, defense attorneys, judges, the public, and the over 42,000 registrants who now live in Texas. This complexity has two primary causes: lack of internal organization, and an excess of confusing details and mandated actions. The Committee urges the 79<sup>th</sup> Legislature to take action to remedy both of these problems.

### *“... to streamline ...”*

To compensate for the volume of legislation now contained in Chapter 62, the law must be better-organized and more user-friendly. These goals can be achieved with minimal substantive change to the existing statutes. Specifically, the provisions of Chapter 62 could be more easily understood and utilized by re-arranging them into subchapters grouped according to general topics. Making these and other structurally-related changes will help to streamline the law as requested by the Speaker’s charge to this Committee.

### *“... and clarify ...”*

Unfortunately, not all of the complexity and confusion in Chapter 62 can be resolved through a simple re-organization. Since its creation in 1991, Texas’ sex offender registration statutes have become increasingly detailed as they imposed new and additional duties upon registrants and those charged with administering the state’s registration program. This makes it difficult for registrants to abide by the law and difficult for authorities to enforce the law. Furthermore, the requirements of the law now strain the resources of state and local administrators, making it more difficult to devote adequate attention to those registrants who present the greatest danger to the public. While undoubtedly well-intentioned, the sum effect of these additions has been to turn Chapter 62 into a legislative quagmire. For these and other reasons, the Committee has reviewed the various provisions of Chapter 62 and identified changes that may help to clarify the state’s approach to registered sex offenders.

### *Other Concerns*

Prior to discussing the recommendations of the Committee, it is important to note that some—perhaps much—of the increased complexity in Chapter 62 is due to frequent changes in federal grant conditions. Most of these conditions are contained in the *Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act* (42 U.S.C. §14071)(“Wetterling Act”) and related legislation. Washington has increasingly tied the hands of state legislatures by repeatedly adding new mandates to the Wetterling Act and other federal laws that control the distribution of funds to the states in the form of criminal justice grants. These grant conditions effectively limit the changes that state legislatures may be willing to make to their sex offender registration laws due to a fear of losing federal funds.

One example of this phenomenon concerns the concept of exemption. The development of Chapter 62 has included periods during which Texas courts could waive sex offender registration for certain offenders or remove an offender’s existing duty to register (all of which we will refer to as an “exemption” from the requirement to register as a sex offender). Those exemption laws were repealed, however, to comply with the Wetterling Act (and specifically, the amendments contained in the *Pam Lychner Sexual Offender Tracking and Identification Act* (Public Law No. 104-236 (S. 1675, Gramm-TX), enacted in 1996). Under this law, exemption cannot be made available to sexually violent predators

(i.e., those subject to civil commitment), anyone convicted of an “aggravated” offense, or anyone with a prior registerable offense who subsequently re-offends. The Wetterling Act also penalizes states that permit exemptions for these offenders, forcing states like Texas to remove that option except for certain offenders who were under the age of 19 at the time of their offense.

The Committee received testimony from many sources urging the members to consider the re-creation of a general exemption process for most or all registrants. Such a program would have many advantages, including:

- Serving the interests of justice in cases involving offenders who do not present a continuing threat to re-offend;
- Preventing registration from being an impediment to what would otherwise be an agreed resolution of a case;
- Reducing costs for local governments and allowing their limited resources to be better directed to those who present a greater danger to public safety; and more.

The attractiveness of a general exemption provision is further confirmed by the fact that Texas already has a limited exemption for youthful offenders, one that is permitted under the Wetterling Act. In fact, there are two separate exemption sections in Chapter 62—one for juveniles under the age of 17 at the time of their offense, and one for young adults who were 18 or 19 years old at the time of their offense. (This is yet another example of some of the needless duplication and complexity that afflicts the law.)

Despite the support that exists for a streamlined and expanded form of general exemption, the Committee has been informed by the Criminal Justice Division of the Office of the Governor that the adoption of such a provision could violate the Wetterling Act. In doing so, Texas would risk the loss of 10% of the annual federal grants it receives in the form of Edward Byrne Memorial Funds (“Byrne funds”). In fiscal year 2004, Texas received \$32 million in Byrne funds. Therefore, the creation of a general exemption from registration would likely cost the state \$3.2 million per year in lost federal funding (at current levels). Other related changes that have been proposed—such as relaxing the consent laws related to the age of youthful offenders and their partners—could also jeopardize these grants, which are currently used in Texas to fund many important programs, including: anti-terrorism efforts, drug courts, drug prevention, the purchase of law enforcement equipment, the investigation and prosecution of internet, white collar, and money-laundering crimes, and more. Thus, a general exemption statute is inadvisable at this time.

Texas may be able to liberalize its sex offender registration law without running afoul of federal grant requirements, however. The Legislature could create an exemption option limited to certain non-aggravated, first-time adult sex offenders after those offenders have registered for a minimum of ten years. This delayed exemption review would be limited to those sex offenses which currently require lifetime registration under Texas law, but only require ten-year registration under federal law. Those Penal Code offenses are:

- Indecency with a child by contact (Section 21.11(a)(1));
- Burglary with intent to commit sexual assault (Section 30.02);
- Compelling prostitution of a child under 17 (Section 43.05(a)(2));
- Sexual performance by a child (Section 43.25); and
- Possession or promotion of child pornography (Section 43.26).

Based on the information currently available to this Committee, it appears that these offenses do not require lifetime registration under federal law. However, the facts of particular crimes committed under

these sections of the Penal Code may very well merit lifetime registration. Instead of reverting back to a ten-year registration period, the more prudent option might be to allow a court to review these offenses for exemption after the offender has registered for ten years. This would provide increased protection to our communities while also providing relief to those offenders who can demonstrate to a court that they are no longer a threat to re-offend. Therefore, the Committee encourages the Legislature to consider this particular issue in greater detail during the 79<sup>th</sup> Regular Session.

Finally, the Committee would encourage state agencies to exercise their existing rulemaking authority to address problems encountered in the administration of the sex offender registry. Representatives from the Department of Public Safety appeared before the Committee and submitted extensive requests for changes in the current statute. Many of these changes had merit, but were hyper-technical in nature and, if added to Chapter 62 by amendment, would greatly increase the length and resulting complexity of that chapter. Such a result would be contrary to the charge given to this Committee. Therefore, the Committee recommends that the Legislature encourage the Department and other agencies to make greater use of their rulemaking authority to address problems encountered in the administration of the sex offender registry to the extent possible.

### ***Conclusion***

No piece of complex legislation can ever be made perfect. The Committee believes that the recommendations made in this report will improve the sex offender registration laws in Texas, but they are not a cure-all. The Committee received suggestions for many changes—some better than others—but did not include all of them in this report. As the Legislature considers these and other recommendations, it should remember that we find ourselves in our current situation by following that proverbial road paved with good intentions. If we are to truly “streamline and clarify” Texas’ sex offender registration laws, we must consciously avoid the mistakes of the past when trying to improve these laws for future generations.



## COMMITTEE RECOMMENDATIONS

As stated earlier, the Committee has found that Chapter 62 has become too complex and confusing to operate as originally intended. In response, the Committee has drafted legislation to streamline and clarify its provisions. Although the proposed legislation is contained in this report, due to the length of the legislation the Committee has also included bullet points of the recommended changes followed by a fuller explanation of the recommendations.

### *Summary of Recommendations*

- *Re-organize Chapter 62 into subchapters.*
- *Simplify certain definitions and make appropriate corrections to cross-references within Chapter 62 and elsewhere.*
- *Add two recently-created crimes to the list of offenses requiring registration.*
- *Clarify the effect of a pardon for innocence upon the duty to register.*
- *Require the Department of Public Safety to make available its prior determinations of “substantial similarity” regarding extra-jurisdictional offenses.*
- *Eliminate newspaper publication notice.*
- *Expand neighborhood “post card” notification for high-risk offenders.*
- *Tighten requirements upon registrants who have not established a new address.*
- *Revise the “regularly visited locations” exception for reporting overnight visits by a registrant away from his/her registered address.*
- *Create a mechanism for monitoring the presence of certain registrants in “child safety zones.”*
- *Standardize certain registration and exemption requirements for adults and juveniles.*
- *Expand venue for the prosecution of offenses committed under Chapter 62.*
- *Clarify the rules surrounding judicial admonitions regarding registration laws.*
- *Ensure the collection of DNA samples from all registrants.*
- *Require the Department of Public Safety to accept a valid identification card from the Department of Criminal Justice as proof of the identity of a registrant who is applying for a personal identification or driver’s license.*



## *Recommended Changes*

The Committee recommends the following changes to “streamline and clarify the statutory provisions relating to the Sex Offender Registration Program.”

- 1) *Consider permitting an exemption from registration for first-time adult offenders convicted or placed on deferred adjudication for certain non-aggravated offenses after they have registered for a minimum of ten years.*

non- The Legislature should consider the creation of an exemption option available only to certain aggravated, first-time adult sex offenders after those offenders have registered for a minimum of ten years. This delayed exemption review would be limited to those sex offenses which currently require lifetime registration under Texas law, but only require ten-year registration under federal law. This would provide increased protection to our communities while also providing relief to those offenders who can demonstrate to a court that they are no longer a threat to re-offend.

- 2) *Re-organize Chapter 62 into subchapters.*

To aid utility and comprehension, the Committee recommends Chapter 62 be sub-divided as follows:

- A. General Provisions
- B. Registration and Verification Requirements; Related Notice
- C. Expiration of Duty to Register; General Penalties for Noncompliance
- D. Provisions Applicable to Certain Workers and Students
- E. Provisions Applicable to Persons Subject to Civil Commitment
- F. Removal of Registration Information
- G. Exemptions from Registration for Juveniles and Certain Young Sex Offenders

Much of this re-organization will not involve any substantive change in the law. (For more details, see the Disposition Table prepared by Legislative Council)

- 3) *Simplify certain definitions and make appropriate corrections to cross-references within Chapter 62 and elsewhere.*

- Most definitions in Chapter 62 should be consolidated in one article at the beginning of the chapter; and
- The definition of “reportable conviction or adjudication” should be broadened to include various types of juvenile adjudications of delinquent conduct, removing the need to separately define that conduct elsewhere.

- 4) *Add two recently-created crimes to the list of offenses requiring registration.*

During the past two sessions, the Legislature has created two new criminal offenses that include elements of improper sexually-related conduct. Those new offenses are:

- (1) Improper Relationship Between Educator and Student (Section 21.12, Penal Code); and
- (2) Improper Photography or Visual Recording (Section 21.15, Penal Code).

The Committee recommends that these two offenses be added to the list of offenses that require

registration as a sex offender for a term of 10 years.

5) *Clarify the effect of a pardon for innocence upon the duty to register.*

Current law does not automatically remove a pardoned offender from the sex offender registry. The Committee recommends that a registrant who is subsequently pardoned for innocence be removed from that registry in the same manner as that for those who successfully appeal their reportable conviction/adjudication.

6) *Require the Department of Public Safety to make available its prior determinations of “substantial similarity” regarding extra-jurisdictional offenses.*

Current law grants to the Department the responsibility for determining whether certain out-of-state, federal, foreign, or military sex offenses require registration here in Texas. However, this information is not being adequately disseminated to the local jurisdictions that must monitor those registrations and prosecute cases involving a failure to register. Therefore, the Committee recommends that the Department periodically provide or make available to all law enforcement agencies a cumulative compilation of rulings it has made regarding the applicability of the Texas registration law to those offenses.

7) *Eliminate newspaper publication notice.*

There are at least ten separate articles and subarticles scattered throughout Chapter 62 and other state law that address various newspaper publication notice requirements. The Committee has reached the following conclusions about newspaper publication of sex offender information:

- The Committee has not been presented any evidence that publication is an effective means of ensuring public safety;
- Publication is financially burdensome to the local law enforcement authorities required to post them, especially in large urban areas;
- The need for publication has been made unnecessary by other policy advances, including:
  - the online public registration database maintained by the Department of Public Safety;
  - the public’s ability to request such information directly from the Department; and
  - the statutory requirement that the Department distribute postcard notification to the neighbors of high-risk sex offenders;
- Publication is not required by federal statute; and
- Repealing the publication provisions would shorten the overall length of Chapter 62, make the chapter less complex, and eliminate the need to periodically amend it to administer publication programs.

Therefore, the Committee recommends that the current newspaper publication notice requirements of Chapter 62 be repealed. However, we also recommend that publication remain an option for agencies publicizing notice for high-risk offenders, should that agency believe such notice is necessary. This change should not be construed to remove from judges their existing authority under other law to order appropriate conditions of community supervision in cases involving sex offenders.

8) *Expand neighborhood “post card” notification for high-risk offenders.*

Current post card notification for sex offenders with a numeric risk level of three (the highest level possible) is limited to “residential addresses” within a certain distance from the offender’s registered address. This system should be expanded to include non-residential addresses (other than post office boxes) so that nearby pre-schools, day care centers, schools, and businesses can be placed on notice.

- 9) *Tighten requirements upon registrants who have not established a new address.*

To prevent registrants in transition between residences from getting “lost in the system,” the Committee recommends that they be required to report to their primary registration authority on a weekly basis until they establish a permanent residence for registration purposes.

- 10) *Revise the “regularly visited locations” exception for reporting overnight visits by a registrant away from his/her registered address.*

The current language defining the exception for “regularly visited locations” is confusing and often unenforceable. This provision was intended to help authorities keep abreast of registrants who must legitimately travel and stay overnight at locations other than their residence, but it has become a legalistic loophole that allows some registrants to violate the spirit—if not the letter—of the law. The Committee recommends that this exception be further limited to better track the whereabouts of registrants who temporarily stay, sleep, or take extended visits at locations other than their registered address.

- 11) *Create a mechanism for monitoring the presence of certain registrants in “child safety zones.”*

Current law imposes additional registration duties in “child safety zones” for registrants who are on community supervision or parole for an offense or conduct involving a child. However, these same restrictions do not apply once those registrants have discharged their sentence, even though many of the same public safety concerns persist. Therefore, the Committee recommends that those registrants should give notice of their presence to the administrator of such a facility regardless of their status on probation or parole. Failure to comply with this provision should be punishable in the same manner as other offenses for failure to properly register.

- 12) *Standardize certain registration and exemption requirements for adults and juveniles.*

Over the course of several legislative sessions, the registration requirements for adult and juvenile sex offenders have become increasingly distinct and/or duplicative, leading to confusion. The Committee recommends that, to the extent possible, provisions directed at juvenile sex offenders be expanded to include eligible adults in a manner consistent with the rest of Chapter 62. This includes expanding the existing law on disposal of juvenile records to apply to all registrants whose duty to register has expired. It also includes combining those current provisions that create limited exemptions from registration for certain juvenile and young adult offenders and clarifying the process to petition, order, and appeal such exemptions.

- 13) *Expand venue for the prosecution of offenses committed under Chapter 62.*

Sex offender registrants who frequently change residences or move between jurisdictions without making the proper notifications often end up “slipping through the cracks” between the various agencies located in those jurisdictions. The Committee recommends that venue for the prosecution of these offenders be expanded to close those loopholes and clarify the ability of

those agencies to charge and prosecute those offenders for failures to properly register. (Note that this change can be made in Chapter 13, Code of Criminal Procedure, and therefore will not contribute to the length of Chapter 62.)

14) *Clarify the rules surrounding judicial admonitions regarding registration laws.*

Chapter 62 has become so complicated that it is not reasonable to expect courts to fully admonish offenders about each and every requirement under Chapter 62. Likewise, it is unjust to permit valid pleas of guilty to be overturned based upon a technical failure by a court. Therefore, the Committee recommends that plea admonitions regarding the collateral consequences of sex offender registration remain valid as long as a court substantially complies with the law. (Note that this change can be made in Article 26.13, Code of Criminal Procedure, and therefore will not contribute to the length of Chapter 62.)

15) *Ensure the collection of DNA samples from all registrants.*

All registrants should already have a DNA profile entered in the appropriate investigative databases before their release. Unfortunately, compliance with this requirement is not always complete. To ensure that a registrant's DNA profile is available for future use by criminal investigators, the Committee recommends that a specific authorization to take a sample in compliance with applicable state law be included in the Government Code and that a registrant's failure to comply with a valid request for a DNA sample be punishable under Chapter 62.

16) *Require the Department of Public Safety to accept a valid identification card from the Department of Criminal Justice as proof of the identity of a registrant who is applying for a personal identification or driver's license.*

Many new registrants have difficulty obtaining proper identification upon their release from confinement. The Committee recommends expanding the types of documentation the Department of Public Safety can accept as the basis for issuing identification in order to ease the re-entry of these registrants. The Committee also urges both agencies to work together to ensure that accuracy of the information exchanged. Note that this change can be made in the Transportation Code, and therefore will not contribute to the length of Chapter 62.

# PROPOSED LEGISLATION

A BILL TO BE ENTITLED

AN ACT

relating to the registration and supervision of sex offenders; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

## ARTICLE I. SEX OFFENDER REGISTRATION REQUIREMENTS

SECTION 1.01. Chapter 62, Code of Criminal Procedure, is reenacted and amended to read as follows:

### CHAPTER 62. SEX OFFENDER REGISTRATION PROGRAM

#### SUBCHAPTER A. GENERAL PROVISIONS

Art. 62.001 [~~62.04~~]. DEFINITIONS. In this chapter:

- (1) "Department" means the Department of Public Safety.
- (2) "Local law enforcement authority" means the chief of police of a municipality or the sheriff of a county in this state.
- (3) "Penal institution" means a confinement facility operated by or under a contract with any division of the Texas Department of Criminal Justice, a confinement facility operated by or under contract with the Texas Youth Commission, or a juvenile secure pre-adjudication or post-adjudication facility operated by or under a local juvenile probation department, or a county jail.
- (4) "Released" means discharged, paroled, placed in a nonsecure community program for juvenile offenders, or placed on juvenile probation, community supervision, or mandatory supervision.
- (5) "Reportable conviction or adjudication" means a conviction or adjudication, including an adjudication of delinquent conduct or a deferred adjudication, [~~regardless of the pendency of an appeal,~~] that, regardless of the pendency of an appeal, is a conviction for or an adjudication for or based on:

- (A) [~~a conviction for~~] a violation of Section 21.11 (Indecency with a child),

22.011 (Sexual assault), 22.021 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct), Penal Code;

(B) [~~a conviction for~~] a violation of Section 43.05 (Compelling prostitution), 43.25 (Sexual performance by a child), or 43.26 (Possession or promotion of child pornography), Penal Code;

(C) [~~a conviction for~~] a violation of Section 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the actor [~~defendant~~] committed the offense or engaged in the conduct with intent to violate or abuse the victim sexually;

(D) [~~a conviction for~~] a violation of Section 30.02 (Burglary), Penal Code, if the offense or conduct is punishable under Subsection (d) of that section and the actor [~~defendant~~] committed the offense or engaged in the conduct with intent to commit a felony listed in Paragraph (A) or (C);

(E) [~~a conviction for~~] a violation of Section 20.02 (Unlawful restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping), Penal Code, if, as applicable:

(i) the judgment in the case contains an affirmative finding under Article 42.015; or

(ii) the order in the hearing or the papers in the case contain an affirmative finding that the victim or intended victim was younger than 17 years of age;

(F) a violation of Section 21.12 (Improper relationship between educator and student) or Section 21.15 (Improper photography or visual recording), Penal Code;

(G) [~~(F)~~] the second [~~conviction for a~~] violation of Section 21.08 (Indecent exposure), Penal Code, but not if the second violation results in a deferred adjudication;

(H) [~~(G)~~ a conviction for] an attempt, conspiracy, or solicitation, as defined by Chapter 15, Penal Code, to commit an offense or engage in conduct listed in Paragraph (A), (B), (C), (D), [~~(E)~~], or (F);

(I) [~~(H)~~ an adjudication of delinquent conduct;

~~[(i) based on a violation of one of the offenses listed in Paragraph (A), (B), (C), (D), or (G) or, if the order in the hearing contains an affirmative finding that the victim or intended victim was younger than 17 years of age, one of the offenses listed in Paragraph (E); or~~

~~[(ii) for which two violations of the offense listed in Paragraph (F) are shown;~~

~~[(I) a deferred adjudication for an offense listed in:~~

~~[(i) Paragraph (A), (B), (C), (D), or (G); or~~

~~[(ii) Paragraph (E) if the papers in the case contain an affirmative finding that the victim or intended victim was younger than 17 years of age;~~

~~[(J) a violation of [conviction under] the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (C), (D), (E), (F), or (H), but not if the violation results in a deferred adjudication [(G)]; or~~

~~[(J) [(K) an adjudication of delinquent conduct under the laws of another state, federal law, or the laws of a foreign country based on a violation of an offense containing elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (C), (D), (E), or (G);~~

~~[(L) the second violation of [conviction under] the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of the offense of indecent exposure, but not if the second violation results in a deferred adjudication]; ~~or~~~~

~~[(M) the second adjudication of delinquent conduct under the laws of another state, federal law, or the laws of a foreign country based on a violation of an offense containing elements that are substantially similar to the elements of the offense of indecent exposure].~~

(6) "Sexually violent offense" means any of the following offenses committed by a person 17 years of age or older:

(A) an offense under Section 21.11(a)(1) (Indecency with a child), 22.011 (Sexual assault), or 22.021 (Aggravated sexual assault), Penal Code;

(B) an offense under Section 43.25 (Sexual performance by a child), Penal Code;

(C) an offense under Section 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the defendant committed the offense with intent to violate or abuse the victim sexually;

(D) an offense under Section 30.02 (Burglary), Penal Code, if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with intent to commit a felony listed in Paragraph (A) or (C) of Subdivision (5); or

(E) an offense under the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice if the offense contains elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (C), or (D).

(7) "Residence" includes a residence established in this state by a person described by Article 62.152(e) [~~62.063(e)~~].

(8) "Public or private institution of higher education" includes a college, university, community college, or technical or trade institute.

(9) "Authority for campus security" means the authority with primary law enforcement jurisdiction over property under the control of a public or private institution of higher education, other than a local law enforcement authority.

(10) "Extrajurisdictional registrant" means a person who:

(A) is required to register as a sex offender under:

(i) the laws of another state with which the department has entered into a reciprocal registration agreement;

(ii) federal law or the Uniform Code of Military Justice; or

(iii) the laws of a foreign country; and

(B) is not otherwise required to register under this chapter because:

(i) the person does not have a reportable conviction for an offense under the laws of the other state, federal law, the laws of the foreign country, or the Uniform Code of Military Justice containing elements that are substantially similar to the elements of an offense requiring registration under this chapter; or

(ii) the person does not have a reportable adjudication of delinquent conduct based on a violation of an offense under the laws of the other state, federal law, or the laws of the foreign country containing elements that are substantially similar to the elements of an offense requiring registration under this chapter.

Art. 62.002. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a reportable conviction or adjudication occurring on or after September 1, 1970.

(b) Except as provided by Subsection (c), the duties imposed on a person required to register under this chapter on the basis of a reportable conviction or adjudication, and the corresponding duties and powers of other entities in relation to the person required to register on the basis of that conviction or adjudication, are not affected by:

(1) an appeal of the conviction or adjudication; or

(2) a pardon of the conviction or adjudication.

(c) If a conviction or adjudication that is the basis of a duty to register under this chapter is set aside on appeal by a court or if the person required to register under this chapter on the basis of a conviction or adjudication receives a pardon on the basis of subsequent proof of innocence, the duties imposed on the person by this chapter and the corresponding duties and powers of other entities in relation to the person are terminated.

Art. 62.003 [62.0104]. DETERMINATION REGARDING SUBSTANTIALLY SIMILAR ELEMENTS OF OFFENSE. (a) For the purposes of this chapter, the [The] department is responsible

for determining [~~for the purposes of this chapter~~] whether an offense under the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice contains elements that are substantially similar to the elements of an offense under the laws of this state.

(b) The department annually shall provide or make available to each prosecuting attorney's office in this state:

(1) the criteria used in making a determination under Subsection (a); and

(2) any existing record or compilation of offenses under the laws of another state, federal law, the laws of a foreign country, and the Uniform Code of Military Justice that the department has already determined to contain elements that are substantially similar to the elements of offenses under the laws of this state.

(c) An appeal of a determination made under this article shall be brought in a district court in Travis County.

Art. ~~62.004~~ [62.0102]. DETERMINATION REGARDING PRIMARY REGISTRATION AUTHORITY. (a) For each person subject to registration under this chapter, the department shall determine which local law enforcement authority serves as the person's primary registration authority based on the municipality or county in which the person resides or, as provided by Article ~~62.152~~ [62.061, as added by Chapters 1193 and 1415, Acts of the 76th Legislature, Regular Session, 1999], the municipality or county in which the person works or attends school.

(b) The department shall notify each person subject to registration under this chapter of the person's primary registration authority in a timely manner.

Art. 62.005. CENTRAL DATABASE; PUBLIC INFORMATION. (a) The department shall maintain a computerized central database containing only the information required for registration under this chapter.

(b) The information contained in the database is public information, with the exception of any information:

(1) regarding the person's social security number, driver's license number, or telephone number;

(2) that is required by the department under Article 62.051(c)(7); or

(3) that would identify the victim of the offense for which the person is subject to registration.

(c) Notwithstanding Chapter 730, Transportation Code, the department shall maintain in the database, and shall post on any department website related to the database, any photograph of the person that is available through the process for obtaining or renewing a personal identification certificate or driver's license under Section 521.103 or 521.272, Transportation Code. The department shall update the photograph in the database and on the website annually or as the photograph otherwise becomes available through the renewal process for the certificate or license.

(d) A local law enforcement authority shall release public information described under Subsection (b) to any person who submits to the authority a written request for the information. The authority may charge the person a fee not to exceed the amount reasonably necessary to cover the administrative costs associated with the authority's release of information to the person under this subsection.

(e) The department shall provide a licensing authority with notice of any person required to register under this chapter who holds or seeks a license that is issued by the authority. The department shall provide the notice required by this subsection as the applicable licensing information becomes available through the person's registration or verification of registration.

(f) On the written request of a licensing authority that identifies an individual and states that the individual is an applicant for or a holder of a license issued by the authority, the department shall release any information described by Subsection (a) to the licensing authority.

(g) For the purposes of Subsections (e) and (f):

(1) "License" means a license, certificate, registration, permit, or other authorization that:

(A) is issued by a licensing authority; and

(B) a person must obtain to practice or engage in a particular business, occupation, or profession.

(2) "Licensing authority" means a department, commission, board, office, or other agency of the state or a political subdivision of the state that issues a license.

(h) Not later than the third day after the date on which the applicable information becomes available through the person's registration or verification of registration or under Article 62.057, the department shall send notice of any person required to register under this chapter who is or will be employed, carrying on a vocation, or a student at a public or private institution of higher education in this state to:

(1) for an institution in this state:

(A) the authority for campus security for that institution; or

(B) if an authority for campus security for that institution does not exist, the local law enforcement authority of:

(i) the municipality in which the institution is located; or

(ii) the county in which the institution is located, if the institution is not located in a municipality; or

(2) for an institution in another state, any existing authority for campus security at that institution.

(i) On the written request of an institution of higher education described by Subsection (h) that identifies an individual and states that the individual has applied to work or study at the institution, the department shall release any information described by Subsection (a) to the institution.

Art. 62.006. INFORMATION PROVIDED TO PEACE OFFICER ON REQUEST. The department shall establish a procedure by which a peace officer or employee of a law enforcement agency who provides the department with a driver's license number, personal identification certificate

number, or license plate number is automatically provided information as to whether the person to whom the driver's license or personal identification certificate is issued is required to register under this chapter or whether the license plate number is entered in the computerized central database under Article 62.005 as assigned to a vehicle owned or driven by a person required to register under this chapter.

Art. 62.007. RISK ASSESSMENT REVIEW COMMITTEE; SEX OFFENDER SCREENING TOOL. (a) The Texas Department of Criminal Justice shall establish a risk assessment review committee composed of at least five members, each of whom is a state employee whose service on the review committee is in addition to the employee's regular duties. The review committee, to the extent feasible, should include at least:

- (1) one member having experience in law enforcement;
- (2) one member having experience working with juvenile sex offenders;
- (3) one member having experience as a sex offender treatment provider; and
- (4) one member having experience working with victims of sex offenses.

(b) The risk assessment review committee functions in an oversight capacity. The committee shall:

- (1) develop or select from among existing tools a sex offender screening tool to be used in determining the level of risk of a person subject to registration under this chapter;
- (2) ensure that staff is trained on the use of the screening tool;
- (3) monitor the use of the screening tool in the state; and
- (4) analyze other screening tools as they become available and revise or replace the existing screening tool if warranted.

(c) The sex offender screening tool must use an objective point system under which a person is assigned a designated number of points for each of various factors. In developing or selecting the sex offender screening tool, the risk assessment review committee shall use or shall select a screening tool that may be adapted to use the following general guidelines:

(1) level one (low): a designated range of points on the sex offender screening tool indicating that the person poses a low danger to the community and will not likely engage in criminal sexual conduct;

(2) level two (moderate): a designated range of points on the sex offender screening tool indicating that the person poses a moderate danger to the community and might continue to engage in criminal sexual conduct; and

(3) level three (high): a designated range of points on the sex offender screening tool indicating that the person poses a serious danger to the community and will continue to engage in criminal sexual conduct.

(d) The risk assessment review committee, the Texas Department of Criminal Justice, the Texas Youth Commission, or a court may override a risk level only if the entity:

(1) believes that the risk level assessed is not an accurate prediction of the risk the offender poses to the community; and

(2) documents the reason for the override in the offender's case file.

(e) Notwithstanding Chapter 58, Family Code, records and files, including records that have been sealed under Section 58.003 of that code, relating to a person for whom a court, the Texas Department of Criminal Justice, or the Texas Youth Commission is required under this article to determine a level of risk shall be released to the court, department, or commission, as appropriate, for the purpose of determining the person's risk level.

(f) Chapter 551, Government Code, does not apply to a meeting of the risk assessment review committee.

Art. 62.008. GENERAL IMMUNITY. The following persons are immune from liability for good faith conduct under this chapter:

(1) an employee or officer of the Texas Department of Criminal Justice, the Texas Youth Commission, the Texas Juvenile Probation Commission, or the Department of Public Safety;

(2) an employee or officer of a community supervision and corrections department or a juvenile probation department; and

(3) a member of the judiciary.

Art. 62.009. IMMUNITY FOR RELEASE OF PUBLIC INFORMATION. (a) The department, a penal institution, a local law enforcement authority, or an authority for campus security may release to the public information regarding a person required to register under this chapter only if the information is public information under this chapter.

(b) An individual, agency, entity, or authority is not liable under Chapter 101, Civil Practice and Remedies Code, or any other law for damages arising from conduct authorized by Subsection (a).

(c) For purposes of determining liability, the release or withholding of information by an appointed or elected officer of an agency, entity, or authority is a discretionary act.

(d) A private primary or secondary school, public or private institution of higher education, or administrator of a private primary or secondary school or public or private institution of higher education may release to the public information regarding a person required to register under this chapter only if the information is public information under this chapter and is released to the administrator under Article 62.005, 62.053, 62.054, 62.055, or 62.153. A private primary or secondary school, public or private institution of higher education, or administrator of a private primary or secondary school or public or private institution of higher education is not liable under any law for damages arising from conduct authorized by this subsection.

Art. 62.010. RULEMAKING AUTHORITY. The Texas Department of Criminal Justice, the Texas Youth Commission, the Texas Juvenile Probation Commission, and the department may adopt any rule necessary to implement this chapter.

## SUBCHAPTER B. REGISTRATION AND VERIFICATION

### REQUIREMENTS; RELATED NOTICE

~~[Art. 62.0105. EXEMPTION FROM REGISTRATION FOR CERTAIN SEX OFFENDERS.~~

~~(a) If eligible under Subsection (b) or (c), a person required to register under this chapter may petition the court having jurisdiction over the case for an order exempting the person from registration under this chapter at any time after the person's sentencing or after the person is placed on deferred adjudication community supervision.~~

~~[(b) A person is eligible to petition the court as described by Subsection (a) if:~~

~~[(1) the person is required to register only as a result of a single reportable conviction or adjudication, other than an adjudication of delinquent conduct; and~~

~~[(2) the court has entered in the appropriate judgment or has filed with the appropriate papers a statement of an affirmative finding described by Article 42.017 or Section 5(g), Article 42.12.~~

~~[(c) A defendant who before September 1, 2001, is convicted of or placed on deferred adjudication community supervision for an offense under Section 21.11, 22.011, 22.021, or 43.25, Penal Code, is eligible to petition the court as described by Subsection (a). The court may consider the petition only if the petition states and the court finds that the defendant would have been entitled to the entry of an affirmative finding under Article 42.017 or Section 5(g), Article 42.12, as appropriate, had the conviction or placement on deferred adjudication community supervision occurred after September 1, 2001.~~

~~[(d) After a hearing on the petition described by Subsection (a), the court may issue an order exempting the person from registration under this chapter if it appears by a preponderance of the evidence:~~

~~[(1) as presented by a registered sex offender treatment provider, that the exemption does not threaten public safety; and~~

~~[(2) that the person's conduct did not occur without the consent of the victim or intended victim as described by Section 22.011(b), Penal Code.~~

~~[(e) An order exempting the person from registration under this chapter does not expire, but the court shall withdraw the order if after the order is issued the person receives a reportable conviction or~~

adjudication under this chapter.

~~[Art. 62.011. WORKERS OR STUDENTS. (a) A person is employed or carries on a vocation for purposes of this chapter if the person works or volunteers on a full time or part time basis for a consecutive period exceeding 14 days or for an aggregate period exceeding 30 days in a calendar year. A person works for purposes of this subsection regardless of whether the person works for compensation or for governmental or educational benefit.~~

~~[(b) A person is a student for purposes of this chapter if the person enrolls on a full time or part-time basis in any educational facility, including:~~

~~[(1) a public or private primary or secondary school, including a high school or alternative learning center; or~~

~~[(2) a public or private institution of higher education.]~~

Art. 62.051 ~~[62.02]~~. REGISTRATION: GENERAL. (a) A person who has a reportable conviction or adjudication or who is required to register as a condition of parole, release to mandatory supervision, or community supervision shall register or, if the person is a person for whom registration is completed under this chapter, verify registration as provided by Subsection (f) ~~[(e)]~~, with the local law enforcement authority in any municipality where the person resides or intends to reside for more than seven days. If the person does not reside or intend to reside in a municipality, the person shall register or verify registration in any county where the person resides or intends to reside for more than seven days. The person shall satisfy the requirements of this subsection not later than the seventh day after the person's arrival in the municipality or county.

(b) The department shall provide the Texas Department of Criminal Justice, the Texas Youth Commission, the Texas Juvenile Probation Commission, and each local law enforcement authority, authority for campus security, county jail, and court with a form for registering persons required by this chapter to register.

(c) The registration form shall require:

(1) the person's full name, each alias, date of birth, sex, race, height, weight, eye color, hair color, social security number, driver's license number, shoe size, and home address;

(2) a recent color photograph or, if possible, an electronic digital image of the person and a complete set of the person's fingerprints;

(3) the type of offense the person was convicted of, the age of the victim, the date of conviction, and the punishment received;

(4) an indication as to whether the person is discharged, paroled, or released on juvenile probation, community supervision, or mandatory supervision;

(5) an indication of each license, as defined by Article 62.005(g) [~~62.08(g)~~], that is held or sought by the person;

(6) an indication as to whether the person is or will be employed, carrying on a vocation, or a student at a particular public or private institution of higher education in this state or another state, and the name and address of that institution; and

(7) any other information required by the department.

(d) The registration form must contain a statement and description of any duties the person has or may have under this chapter.

(e) [~~(e)~~] Not later than the third day after a person's registering, the local law enforcement authority with whom the person registered shall send a copy of the registration form to the department and, if the person resides on the campus of a public or private institution of higher education, to any authority for campus security for that institution.

(f) [~~(f)~~] A person for whom registration is completed under this chapter shall report to the applicable local law enforcement authority to verify the information in the registration form received by the authority under this chapter. The authority shall require the person to produce proof of the person's identity and residence before the authority gives the registration form to the person for verification. If the information in the registration form is complete and accurate, the person shall verify registration by

signing the form. If the information is not complete or not accurate, the person shall make any necessary additions or corrections before signing the form.

(g) [~~(e)~~] A person who is required to register or verify registration under this chapter shall ensure that the person's registration form is complete and accurate with respect to each item of information required by the form in accordance with Subsection (b).

(h) [~~(f)~~] If a person subject to registration under this chapter does not move to an intended residence by the end of the seventh day after the date on which the person is released or the date on which the person leaves a previous residence, the person shall:

(1) report to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person by not later than the seventh day after the date on which the person is released or the date on which the person leaves a previous residence, as applicable, and provide the officer with the address of the person's temporary residence; and

(2) continue to report to the person's supervising officer not less than weekly during any period of time in which the person has not moved to an intended residence and provide the officer with the address of the person's temporary residence.

(i) [~~(g)~~] If the other state has a registration requirement for sex offenders, a person who has a reportable conviction or adjudication, who resides in this state, and who is employed, carries on a vocation, or is a student in another state shall, not later than the 10th day after the date on which the person begins to work or attend school in the other state, register with the law enforcement authority that is identified by the department as the authority designated by that state to receive registration information. If the person is employed, carries on a vocation, or is a student at a public or private institution of higher education in the other state and if an authority for campus security exists at the institution, the person shall also register with that authority not later than the 10th day after the date on which the person begins to work or attend school.

Art. 62.052 [~~62.021~~]. REGISTRATION: EXTRAJURISDICTIONAL [~~OUT OF STATE~~]

REGISTRANTS. (a) An extrajurisdictional registrant [~~This article applies to a person who:~~

~~[(1) is required to register as a sex offender under:~~

~~[(A) the laws of another state with which the department has entered into a reciprocal registration agreement;~~

~~[(B) federal law or the Uniform Code of Military Justice; or~~

~~[(C) the laws of a foreign country; and~~

~~[(2) is not otherwise required to register under this chapter because:~~

~~[(A) the person does not have a reportable conviction for an offense under the laws of the other state, federal law, the laws of the foreign country, or the Uniform Code of Military Justice containing elements that are substantially similar to an offense requiring registration under this chapter; or~~

~~[(B) the person does not have a reportable adjudication of delinquent conduct based on a violation of an offense under the laws of the other state, federal law, or the laws of the foreign country containing elements that are substantially similar to an offense requiring registration under this chapter.~~

~~[(b) A person described by Subsection (a)] is required to comply with the annual verification requirements of Article 62.058 [~~62.06~~] in the same manner as a person who is required to verify registration on the basis of a reportable conviction or adjudication.~~

~~(b) [(e)] The duty to register for an extrajurisdictional registrant [~~a person described by Subsection (a)~~] expires on the date the person's duty to register would expire under the laws of the other state or foreign country had the person remained in that state or foreign country, under federal law, or under the Uniform Code of Military Justice, as applicable.~~

~~(c) [(d)] The department may negotiate and enter into a reciprocal registration agreement with any other state to prevent residents of this state and residents of the other state from frustrating the public purpose of the registration of sex offenders by moving from one state to the other.~~

Art. 62.053 [~~62.03~~]. PRERELEASE NOTIFICATION. (a) Before a person who will be subject to registration under this chapter is due to be released from a penal institution, the Texas Department of Criminal Justice or the Texas Youth Commission shall determine the person's level of risk to the community using the sex offender screening tool developed or selected under Article 62.007 [~~62.035~~] and assign to the person a numeric risk level of one, two, or three. Before releasing the person, an official of the penal institution shall:

(1) inform the person that:

(A) not later than the seventh day after the date on which the person is released or the date on which the person moves from a previous residence to a new residence in this state, the person must:

(i) register or verify registration with the local law enforcement authority in the municipality or county in which the person intends to reside; or

(ii) if the person has not moved to an intended residence, report to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person;

(B) not later than the seventh day before the date on which the person moves to a new residence in this state or another state, the person must report in person to the local law enforcement authority designated as the person's primary registration authority by the department and to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person;

(C) not later than the 10th day after the date on which the person arrives in another state in which the person intends to reside, the person must register with the law enforcement agency that is identified by the department as the agency designated by that state to receive registration information, if the other state has a registration requirement for sex offenders;

(D) not later than the 30th day after the date on which the person is released, the

person must apply to the department in person for the issuance of an original or renewal driver's license or personal identification certificate and a failure to apply to the department as required by this paragraph results in the automatic revocation of any driver's license or personal identification certificate issued by the department to the person; ~~and~~

(E) the person must notify appropriate entities of any change in status as described by Article 62.057 [~~62.05~~]; and

(F) the person must comply with Article 62.061, if applicable;

(2) require the person to sign a written statement that the person was informed of the person's duties as described by Subdivision (1) or Subsection (g) [~~(h)~~] or, if the person refuses to sign the statement, certify that the person was so informed;

(3) obtain the address where the person expects to reside on the person's release and other registration information, including a photograph and complete set of fingerprints; and

(4) complete the registration form for the person.

(b) On the seventh day before the date on which a person who will be subject to registration under this chapter is due to be released from a penal institution, or on receipt of notice by a penal institution that a person who will be subject to registration under this chapter is due to be released in less than seven days, an official of the penal institution shall send the person's completed registration form and numeric risk level to the department and to:

(1) the applicable local law enforcement authority in the municipality or county in which the person expects to reside, if the person expects to reside in this state; or

(2) the law enforcement agency that is identified by the department as the agency designated by another state to receive registration information, if the person expects to reside in that other state and that other state has a registration requirement for sex offenders.

(c) If a person who is subject to registration under this chapter receives an order deferring adjudication, placing the person on community supervision or juvenile probation [~~or community~~

~~supervision~~], or imposing only a fine, the court pronouncing the order or sentence shall make a determination of the person's numeric risk level using the sex offender screening tool developed or selected under Article 62.007 [~~62.035~~], assign to the person a numeric risk level of one, two, or three, and ensure that the prerelease notification and registration requirements specified in this article are conducted on the day of entering the order or sentencing. If a community supervision and corrections department representative is available in court at the time a court pronounces a sentence of deferred adjudication or community supervision, the representative shall immediately obtain the person's numeric risk level from the court and conduct the prerelease notification and registration requirements specified in this article. In any other case in which the court pronounces a sentence under this subsection, the court shall designate another appropriate individual to obtain the person's numeric risk level from the court and conduct the prerelease notification and registration requirements specified in this article.

(d) If a person who has a reportable conviction described by Article 62.001(5)(I) [~~62.01(5)(J)~~] or (J) [~~(L)~~] is placed under the supervision of the pardons and paroles division of the Texas Department of Criminal Justice or a community supervision and corrections department under Article 42.11, the division or community supervision and corrections department shall conduct the prerelease notification and registration requirements specified in this article on the date the person is placed under the supervision of the division or community supervision and corrections department. If a person who has a reportable adjudication of delinquent conduct described by Article 62.001(5)(I) [~~62.01(5)(K)~~] or (J) [~~(M)~~] is, as permitted by Section 60.002, Family Code, placed under the supervision of the Texas Youth Commission, a public or private vendor operating under contract with the Texas Youth Commission, a local juvenile probation department, or a juvenile secure pre-adjudication or post-adjudication facility, the commission, vendor, probation department, or facility shall conduct the prerelease notification and registration requirements specified in this article on the date the person is placed under the supervision of the commission, vendor, probation department, or facility.

(e) Not later than the eighth day after receiving a registration form under Subsection (b), (c), or

(d), the local law enforcement authority shall verify the age of the victim, the basis on which the person is subject to registration under this chapter, and the person's numeric risk level. ~~[The authority shall immediately publish notice in English and Spanish in the newspaper of greatest paid circulation in the county in which the person subject to registration intends to reside or, if there is no newspaper of paid circulation in that county, in the newspaper of greatest general circulation in the county, except as provided by Article 62.031. If the authority publishes notice under this subsection, the authority shall publish a duplicate notice in the newspaper, with any necessary corrections, during the week immediately following the week of initial publication.]~~ The local law enforcement authority shall [also] immediately provide notice to the superintendent of the public school district and to the administrator of any private primary or secondary school located in the public school district in which the person subject to registration intends to reside by mail to the office of the superintendent or administrator, as appropriate, in accordance with Article 62.054 ~~[62.032]~~. On receipt of a notice under this subsection, the superintendent shall release the information contained in the notice to appropriate school district personnel, including peace officers and security personnel, principals, nurses, and counselors.

(f) ~~[The local law enforcement authority shall include in the notice by publication in a newspaper the following information only:~~

~~[(1) the person's full name, age, and gender;~~

~~[(2) a brief description of the offense for which the person is subject to registration;~~

~~[(3) the municipality, numeric street address or physical address, if a numeric street address is not available, and zip code number where the person intends to reside;~~

~~[(4) either a recent photograph of the person or the Internet address of a website on which the person's photograph is accessible free of charge; and~~

~~[(5) the person's numeric risk level assigned under this chapter and the guidelines used to determine a person's risk level generally.~~

~~[(g)]~~ The local law enforcement authority shall include in the notice to the superintendent of the

public school district and to the administrator of any private primary or secondary school located in the public school district any information the authority determines is necessary to protect the public, except:

(1) the person's social security number, driver's license number, or telephone number;

and

(2) any information that would identify the victim of the offense for which the person is subject to registration.

(g) [~~(h)~~] Before a person who will be subject to registration under this chapter is due to be released from a penal institution in this state, an official of the penal institution shall inform the person that:

(1) if the person intends to reside in another state and to work or attend school in this state, the person must, not later than the seventh day after the date on which the person begins to work or attend school, register or verify registration with the local law enforcement authority in the municipality or county in which the person intends to work or attend school;

(2) if the person intends to reside in this state and to work or attend school in another state and if the other state has a registration requirement for sex offenders, the person must:

(A) not later than the 10th day after the date on which the person begins to work or attend school in the other state, register with the law enforcement authority that is identified by the department as the authority designated by that state to receive registration information; and

(B) if the person intends to be employed, carry on a vocation, or be a student at a public or private institution of higher education in the other state and if an authority for campus security exists at the institution, register with that authority not later than the 10th day after the date on which the person begins to work or attend school; and

(3) regardless of the state in which the person intends to reside, if the person intends to be employed, carry on a vocation, or be a student at a public or private institution of higher education in this state, the person must:

(A) not later than the seventh day after the date on which the person begins to work or attend school, register with:

(i) the authority for campus security for that institution; or

(ii) except as provided by Article 62.153(e) [~~62.064(e)~~], if an authority for campus security for that institution does not exist, the local law enforcement authority of:

(a) the municipality in which the institution is located; or

(b) the county in which the institution is located, if the institution is not located in a municipality; and

(B) not later than the seventh day after the date the person stops working or attending school, notify the appropriate authority for campus security or local law enforcement authority of the termination of the person's status as a worker or student.

~~[(i) If a person who is subject to the newspaper publication requirements of Subsection (e) is not under community supervision, parole, or mandatory supervision, the local law enforcement authority obtaining publication of notice regarding the person as required by that subsection shall collect from the person an amount equal to the cost incurred by the authority in obtaining the publication. The cost of the publication of notice must be established by written receipt.]~~

~~[Art. 62.031. LIMITATIONS ON NEWSPAPER PUBLICATION. (a) A local law enforcement authority may not publish notice in a newspaper under Article 62.03(e) or 62.04(f) if the basis on which the person is subject to registration is:~~

~~[(1) an adjudication of delinquent conduct; or~~

~~[(2) a conviction or a deferred adjudication 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 Section 25.02, Penal Code, if the victim was at the time of the offense a child younger than 17 years of age.]~~

~~[(b) In addition to the prohibition on publication established under Subsection (a), a local law~~

~~enforcement authority may not publish notice in a newspaper under Article 62.04(f) if the person subject to registration is assigned a numeric risk level of one.]~~

Art. 62.054 [~~62.032~~]. 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) [~~62.03(e)~~] or 62.055(f) [~~62.04(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) [~~62.03(e)~~] or 62.055(f) [~~62.04(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.

~~[Art. 62.035. RISK ASSESSMENT REVIEW COMMITTEE; SEX OFFENDER SCREENING TOOL. (a) The Texas Department of Criminal Justice shall establish a risk assessment review committee composed of at least five members, each of whom is a state employee whose service on the review committee is in addition to the employee's regular duties. The review committee, to the extent feasible, should include at least:~~

~~[(1) one member having experience in law enforcement;~~

- ~~[(2) one member having experience working with juvenile sex offenders;~~
- ~~[(3) one member having experience as a sex offender treatment provider; and~~
- ~~[(4) one member having experience working with victims of sex offenses.~~

~~[(b) The risk assessment review committee functions in an oversight capacity. The committee shall:~~

- ~~[(1) develop or select from among existing tools a sex offender screening tool to be used in determining the level of risk of a person subject to registration under this chapter;~~
- ~~[(2) ensure that staff are trained on the use of the screening tool;~~
- ~~[(3) monitor the use of the screening tool in the state; and~~
- ~~[(4) analyze other screening tools as they become available and revise or replace the existing screening tool if warranted.~~

~~[(c) The sex offender screening tool must use an objective point system under which a person is assigned a designated number of points for each of various factors. In developing or selecting the sex offender screening tool, the risk assessment review committee shall use or shall select a screening tool that may be adapted to use the following general guidelines:~~

~~[(1) level one (low): a designated range of points on the sex offender screening tool indicating that the person poses a low danger to the community and will not likely engage in criminal sexual conduct;~~

~~[(2) level two (moderate): a designated range of points on the sex offender screening tool indicating that the person poses a moderate danger to the community and may continue to engage in criminal sexual conduct; and~~

~~[(3) level three (high): a designated range of points on the sex offender screening tool indicating that the person poses a serious danger to the community and will continue to engage in criminal sexual conduct.~~

~~[(d) The risk assessment review committee, the Texas Department of Criminal Justice, the Texas~~

~~Youth Commission, or a court may override a risk level only if the entity:~~

~~[(1) believes that the risk level assessed is not an accurate prediction of the risk the offender poses to the community; and~~

~~[(2) documents the reason for the override in the offender's case file.~~

~~[(e) Notwithstanding Chapter 58, Family Code, records and files, including records that have been sealed under Section 58.003 of that code, relating to a person for whom a court, the Texas Department of Criminal Justice, or the Texas Youth Commission is required under this article to determine a level of risk shall be released to the court, department, or commission, as appropriate, for the purpose of determining the person's risk level.~~

~~[(f) Chapter 551, Government Code, does not apply to a meeting of the risk assessment review committee.]~~

Art. 62.055 [~~62.04~~]. CHANGE OF ADDRESS. (a) If a person required to register under this chapter intends to change address, regardless of whether the person intends to move to another state, the person shall, not later than the seventh day before the intended change, report in person to the local law enforcement authority designated as the person's primary registration authority by the department and to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person and provide the authority and the officer with the person's anticipated move date and new address. If a person required to register changes address, the person shall, not later than the seventh day after changing the address, report in person to the local law enforcement authority in the municipality or county in which the person's new residence is located and provide the authority with proof of identity and proof of residence.

(b) Not later than the third day after receipt of notice under Subsection (a), the person's juvenile probation officer, community supervision and corrections department officer, or parole officer shall forward the information provided under Subsection (a) to the local law enforcement authority designated as the person's primary registration authority by the department and, if the person intends to move to

another municipality or county in this state, to the applicable local law enforcement authority in that municipality or county.

(c) If the person moves to another state that has a registration requirement for sex offenders, the person shall, not later than the 10th day after the date on which the person arrives in the other state, register with the law enforcement agency that is identified by the department as the agency designated by that state to receive registration information.

(d) Not later than the third day after receipt of information under Subsection (a) or (b), whichever is earlier, the local law enforcement authority shall forward this information to the department and, if the person intends to move to another municipality or county in this state, to the applicable local law enforcement authority in that municipality or county.

(e) If a person who reports to a local law enforcement authority under Subsection (a) does not move on or before the anticipated move date or does not move to the new address provided to the authority, the person shall:

(1) not later than the seventh day after the anticipated move date, and not less than weekly after that seventh day, report to the local law enforcement authority designated as the person's primary registration authority by the department and provide an explanation to the authority regarding any changes in the anticipated move date and intended residence; and

(2) report to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person not less than weekly during any period in which the person has not moved to an intended residence.

(f) If the person moves to another municipality or county in this state, the department shall inform the applicable local law enforcement authority in the new area of the person's residence not later than the third day after the date on which the department receives information under Subsection (a). Not later than the eighth day after the date on which the local law enforcement authority is informed under Subsection (a) or under this subsection, the authority shall verify the age of the victim, the basis on which

the person is subject to registration under this chapter, and the person's numeric risk level. ~~[The authority shall immediately publish notice in English and Spanish in the newspaper of greatest paid circulation in the county in which the person subject to registration intends to reside or, if there is no newspaper of paid circulation in that county, in the newspaper of greatest general circulation in the county, except as provided by Article 62.031. If the authority publishes notice under this subsection, the authority shall publish a duplicate notice in the newspaper, with any necessary corrections, during the week immediately following the week of initial publication.]~~ The local law enforcement authority shall ~~[also]~~ immediately provide notice to the superintendent of the public school district and to the administrator of any private primary or secondary school located in the public school district in which the person subject to registration intends to reside by mail to the office of the superintendent or administrator, as appropriate, in accordance with Article 62.054 ~~[62.032]~~. On receipt of a notice under this subsection, the superintendent shall release the information contained in the notice to appropriate school district personnel, including peace officers and security personnel, principals, nurses, and counselors.

(g) ~~[The local law enforcement authority shall include in the notice by publication in a newspaper the following information only:~~

~~[(1) the person's full name, age, and gender;~~

~~[(2) a brief description of the offense for which the person is subject to registration;~~

~~[(3) the municipality, numeric street address or physical address, if a numeric street address is not available, and zip code number where the person intends to reside;~~

~~[(4) either a recent photograph of the person or the Internet address of a website on which the person's photograph is accessible free of charge; and~~

~~[(5) the person's numeric risk level assigned under this chapter and the guidelines used to determine a person's risk level generally.~~

~~[(4)]~~ The local law enforcement authority shall include in the notice to the superintendent of the public school district and the administrator of any private primary or secondary school located in the

public school district any information the authority determines is necessary to protect the public, except:

(1) the person's social security number, driver's license number, or telephone number;

and

(2) any information that would identify the victim of the offense for which the person is subject to registration.

~~(h)~~ ~~(i)~~ If the person moves to another state, the department shall, immediately on receiving information under Subsection (d):

(1) inform the ~~[law enforcement]~~ agency that is designated by the other state to receive registration information, if that state has a registration requirement for sex offenders; and

(2) send to the Federal Bureau of Investigation a copy of the person's registration form, including the record of conviction and a complete set of fingerprints.

~~(j) If a person who is subject to the newspaper publication requirements of Subsection (f) is not under community supervision, parole, or mandatory supervision, the local law enforcement authority obtaining publication of notice regarding the person as required by that subsection shall collect from the person an amount equal to the cost incurred by the authority in obtaining the publication. The cost of the publication of notice must be established by written receipt.~~

~~[Art. 62.041. AUTHORITY OF POLITICAL SUBDIVISION TO COLLECT COSTS OF CERTAIN NOTICE. (a) In this article, "utility service" means water, wastewater, sewer, gas, garbage, electricity, or drainage service.~~

~~(b) A political subdivision served by a local law enforcement authority obtaining publication of notice under Article 62.03 or 62.04 may bill any unpaid amount under that article, identified separately, within a bill for a utility service provided by the political subdivision to the person who is the subject of the notice, and may suspend service of the utility to a person who is delinquent in payment of the amount until the delinquent claim is fully paid to the political subdivision.~~

~~(c) The political subdivision shall remit an amount collected under this article to the local law~~

~~enforcement authority.]~~

Art. 62.056 [~~62.045~~]. ADDITIONAL PUBLIC NOTICE FOR CERTAIN OFFENDERS. (a) On receipt of notice under this chapter that a person subject to registration is due to be released from a penal institution, has been placed on community supervision or juvenile probation, or intends to move to a new residence in this state, the department shall verify the person's numeric risk level assigned under this chapter. If the person is assigned a numeric risk level of three, the department shall, not later than the seventh day after the date on which the person is released or the 10th day after the date on which the person moves, provide written notice mailed or delivered to at least each [~~residential~~] address, other than a post office box, within a one-mile radius, in an area that has not been subdivided, or a three-block area, in an area that has been subdivided, of the place where the person intends to reside. In providing written notice under this subsection, the department shall use employees of the department whose duties in providing the notice are in addition to the employees' regular duties.

(b) The department shall provide the notice in English and Spanish and shall include in the notice any information that is public information under this chapter. The department may not include any information that is not public information under this chapter.

(c) The department shall establish procedures for a person with respect to whom notice is provided under Subsection (a), other than a person subject to registration on the basis of an adjudication of delinquent conduct, to pay to the department all costs incurred by the department in providing the notice. The person shall pay those costs in accordance with the procedures established under this subsection.

(d) On receipt of notice under this chapter that a person subject to registration under this chapter is required to register or verify registration with a local law enforcement authority and has been assigned a numeric risk level of three, the local law enforcement authority may provide notice to the public in any manner determined appropriate by the local law enforcement authority, including publishing notice in a newspaper or other periodical or circular in circulation in the area where the person intends to reside.

holding a neighborhood meeting, posting notices in the area where the person intends to reside, distributing printed notices to area residents, or establishing a specialized local website. The local law enforcement authority may include in the notice only [any] information that is public information under this chapter.

(e) An owner, builder, seller, or lessor of a single-family residential real property or any improvement to residential real property or that person's broker, salesperson, or other agent or representative in a residential real estate transaction does not have a duty to make a disclosure to a prospective buyer or lessee about registrants under this chapter. To the extent of any conflict between this subsection and another law imposing a duty to disclose information about registered sex offenders, this subsection controls.

~~[Art. 62.0451. ADDITIONAL PUBLIC NOTICE FOR INDIVIDUALS SUBJECT TO CIVIL COMMITMENT. (a) On receipt of notice under this chapter that a person subject to registration who is civilly committed as a sexually violent predator is due to be released from a penal institution or intends to move to a new residence in this state, the department shall, not later than the seventh day after the date on which the person is released or the 10th day after the date on which the person moves, provide written notice mailed or delivered to at least each residential address within a one-mile radius, in an area that has not been subdivided, or a three-block area, in an area that has been subdivided, of the place where the person intends to reside.~~

~~[(b) The department shall provide the notice in English and Spanish and shall include in the notice any information that is public information under this chapter. The department may not include any information that is not public information under this chapter.~~

~~[(c) The department shall establish procedures for a person with respect to whom notice is provided under this article to pay to the department all costs incurred by the department in providing the notice. The person shall pay those costs in accordance with the procedures established under this subsection.~~

~~[(d) The department's duty to provide notice under this article in regard to a particular person ends on the date on which a court releases the person from all requirements of the civil commitment process.]~~

Art. 62.057 ~~[62.05]~~. STATUS REPORT BY SUPERVISING OFFICER OR LOCAL LAW ENFORCEMENT AUTHORITY ~~[AGENCY]~~. (a) If the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising a person subject to registration under this chapter receives information to the effect that the person's status has changed in any manner that affects proper supervision of the person, including a change in the person's name, physical health, job or educational status, including higher educational status, incarceration, or terms of release, the supervising officer shall promptly notify the appropriate local law enforcement authority or authorities of that change. If the person required to register intends to change address, the supervising officer shall notify the local law enforcement authorities designated by Article 62.055(b) ~~[62.04(b)]~~. Not later than the seventh day after the date the supervising officer receives the relevant information, the supervising officer shall notify the local law enforcement authority of any change in the person's job or educational status in which the person:

- (1) becomes employed, begins to carry on a vocation, or becomes a student at a particular public or private institution of higher education; or
- (2) terminates the person's status in that capacity.

(b) Not later than the seventh day after the date of the change, a person subject to registration under this chapter shall report to the local law enforcement authority designated as the person's primary registration authority by the department any change in the person's name, physical health, or ~~[in the person's]~~ job or educational status, including higher educational status.

(c) For purposes of Subsection (b):

(1) ~~[this subsection,]~~ a person's job status changes if the person leaves employment for any reason, remains employed by an employer but changes the location at which the person works, or

begins employment with a new employer;

(2) [~~For purposes of this subsection,~~] a person's health status changes if the person is hospitalized as a result of an illness;

(3) [~~For purposes of this subsection,~~] a change in a person's educational status includes the person's transfer from one educational facility to another; and

(4) regarding [~~Regarding~~] a change of name, [~~the~~] notice of the [~~a~~] proposed name [~~change~~] provided to a local law enforcement authority as described by Sections 45.004 and 45.103, Family Code, is sufficient [~~for purposes of this subsection~~], except that the person shall promptly notify the authority of any denial of the person's petition for a change of name.

(d) Not later than the seventh day after the date the local law enforcement authority receives the relevant information, the local law enforcement authority shall notify the department of any change in the person's job or educational status in which the person:

(1) becomes employed, begins to carry on a vocation, or becomes a student at a particular public or private institution of higher education; or

(2) terminates the person's status in that capacity.

Art. 62.058 [~~62-06~~]. LAW ENFORCEMENT VERIFICATION OF REGISTRATION INFORMATION. (a) A person subject to registration under this chapter who has for a sexually violent offense been convicted two or more times, received an order of deferred adjudication two or more times, or been convicted and received an order of deferred adjudication shall report to the local law enforcement authority designated as the person's primary registration authority by the department not less than once in each 90-day period following the date the person first registered under this chapter to verify the information in the registration form maintained by the authority for that person. A person subject to registration under this chapter who is not subject to the 90-day reporting requirement described by this subsection shall report to the local law enforcement authority designated as the person's primary registration authority by the department once each year not earlier than the 30th day before and not later

than the 30th day after the anniversary of the person's date of birth to verify the information in the registration form maintained by the authority for that person. For purposes of this subsection, a person complies with a requirement that the person register within a 90-day period following a date if the person registers at any time on or after the 83rd day following that date but before the 98th day after that date.

(b) A local law enforcement authority designated as a person's primary registration authority by the department may direct the person to report to the authority to verify the information in the registration form maintained by the authority for that person. The authority may direct the person to report under this subsection once in each 90-day period following the date the person first registered under this chapter, if the person is required to report not less than once in each 90-day period under Subsection (a) or once in each year not earlier than the 30th day before and not later than the 30th day after the anniversary of the person's date of birth, if the person is required to report once each year under Subsection (a). A local law enforcement authority may not direct a person to report to the authority under this subsection if the person is required to report under Subsection (a) and is in compliance with the reporting requirements of that subsection.

(c) A local law enforcement authority with whom a person reports under this article shall require the person to produce proof of the person's identity and residence before the authority gives the registration form to the person for verification. If the information in the registration form is complete and accurate, the person shall verify registration by signing the form. If the information is not complete or not accurate, the person shall make any necessary additions or corrections before signing the form.

(d) A local law enforcement authority designated as a person's primary registration authority by the department may at any time mail a nonforwardable verification form to the last reported address of the person. Not later than the 21st day after receipt of a verification form under this subsection, the person shall:

(1) indicate on the form whether the person still resides at the last reported address and, if not, provide on the form the person's new address;

- (2) complete any other information required by the form;
- (3) sign the form; and
- (4) return the form to the authority.

(e) For purposes of this article, a person receives multiple convictions or orders of deferred adjudication regardless of whether:

- (1) the judgments or orders are entered on different dates; or
- (2) the offenses for which the person was convicted or placed on deferred adjudication

arose out of different criminal transactions.

~~[Art. 62.061. VERIFICATION OF INDIVIDUALS SUBJECT TO COMMITMENT. (a) Notwithstanding Article 62.06, if an individual subject to registration under this chapter is civilly committed as a sexually violent predator, the person shall report to the local law enforcement authority designated as the person's primary registration authority by the department not less than once in each 30-day period following the date the person first registered under this chapter to verify the information in the registration form maintained by the authority for that person. For purposes of this subsection, a person complies with a requirement that the person register within a 30-day period following a date if the person registers at any time on or after the 27th day following that date but before the 33rd day after that date.~~

~~[(b) On the date that a court releases a person described by Subsection (a) from all requirements of the civil commitment process:~~

~~[(1) the person's duty to verify registration as a sex offender is no longer imposed by this article; and~~

~~[(2) the person is required to verify registration as provided by Article 62.06.]~~

Art. 62.059 ~~[62.062]~~. REGISTRATION OF PERSONS REGULARLY VISITING LOCATION.

(a) A person subject to this chapter who ~~[on at least three occasions]~~ during any month spends two or more ~~[than 48]~~ consecutive nights ~~[hours]~~ in a municipality or county in this state, other than the municipality or county in which the person is registered under this chapter, before the last day of that

month shall report that fact to:

(1) the local law enforcement authority of the municipality in which the person is a visitor; or

(2) if the person is a visitor in a location that is not a municipality, the local law enforcement authority of the county in which the person is a visitor.

(b) A person described by Subsection (a) shall provide the local law enforcement authority with:

(1) all information the person is required to provide under Article 62.051(c) [~~62.02(b)~~];

(2) the address of any location in the municipality or county, as appropriate, at which the person was lodged during the month; and

(3) a statement as to whether the person intends to return to the municipality or county during the succeeding month.

(c) This article does not impose on a local law enforcement authority requirements of public notification or notification to schools relating to a person about whom the authority is not otherwise required by this chapter to make notifications.

~~[Art. 62.063. REGISTRATION OF CERTAIN WORKERS OR STUDENTS. (a) A person is subject to this article and, except as otherwise provided by this article, to the other articles of this chapter if the person:~~

~~[(1) has a reportable conviction or adjudication;~~

~~[(2) resides in another state; and~~

~~[(3) is employed, carries on a vocation, or is a student in this state.~~

~~[(b) A person described by Subsection (a) is subject to the registration and verification requirements of Articles 62.02 and 62.06 and to the change of address requirements of Article 62.04, except that the registration and verification and the reporting of a change of address are based on the municipality or county in which the person works or attends school. The person is subject to the school notification requirements of Articles 62.03 and 62.04, except that notice provided to the superintendent~~

and any administrator is based on the public school district in which the person works or attends school.

~~[(e) A person described by Subsection (a) is not subject to Article 62.12 and the newspaper publication requirements of Articles 62.03 and 62.04.~~

~~[(d) The duty to register for a person described by Subsection (a) ends when the person no longer works or studies in this state, provides notice of that fact to the local law enforcement authority in the municipality or county in which the person works or attends school, and receives notice of verification of that fact from the authority. The authority must verify that the person no longer works or studies in this state and must provide to the person notice of that verification within a reasonable time.~~

~~[(e) Notwithstanding Subsection (a), this article does not apply to a person who has a reportable conviction or adjudication, who resides in another state, and who is employed, carries on a vocation, or is a student in this state if the person establishes another residence in this state to work or attend school in this state. However, that person remains subject to the other articles of this chapter based on that person's residence in this state.~~

~~[Art. 62.064. REGISTRATION OF WORKERS OR STUDENTS AT INSTITUTIONS OF HIGHER EDUCATION. (a) Not later than the seventh day after the date on which the person begins to work or attend school, a person required to register under Article 62.061, as added by Chapters 1193 and 1415, Acts of the 76th Legislature, Regular Session, 1999, or any other provision of this chapter who is employed, carries on a vocation, or is a student at a public or private institution of higher education in this state shall report that fact to:~~

~~[(1) the authority for campus security for that institution; or~~

~~[(2) if an authority for campus security for that institution does not exist, the local law enforcement authority of:~~

~~[(A) the municipality in which the institution is located; or~~

~~[(B) the county in which the institution is located, if the institution is not located in a municipality.~~

~~[(b) A person described by Subsection (a) shall provide the authority for campus security or the local law enforcement authority with all information the person is required to provide under Article 62.02(b).~~

~~[(c) A person described by Subsection (a) shall notify the authority for campus security or the local law enforcement authority not later than the seventh day after the date of termination of the person's status as a worker or student at the institution.~~

~~[(d) The authority for campus security or the local law enforcement authority shall promptly forward to the administrative office of the institution any information received from the person under this article and any information received from the department under Article 62.08.~~

~~[(e) Subsection (a)(2) does not require a person to register at a local law enforcement authority if the person is otherwise required by this chapter to register at that authority.~~

~~[(f) This article does not impose the requirements of public notification or notification to public or private primary or secondary schools on:~~

~~[(1) an authority for campus security; or~~

~~[(2) a local law enforcement authority, if those requirements relate to a person about whom the authority is not otherwise required by this chapter to make notifications.~~

~~[(g) Notwithstanding Article 62.062, the requirements of this article supersede those of Article 62.062 for a person required to register under both this article and Article 62.062.]~~

Art. 62.060 [~~62.065~~]. REQUIREMENTS RELATING TO DRIVER'S LICENSE OR PERSONAL IDENTIFICATION CERTIFICATE. (a) A person subject to registration under this chapter shall apply to the department in person for the issuance of, as applicable, an original or renewal driver's license under Section 521.272, Transportation Code, an original or renewal personal identification certificate under Section 521.103, Transportation Code, or an original or renewal commercial driver's license or commercial driver learner's permit under Section 522.033, Transportation Code, not later than the 30th day after the date:

(1) the person is released from a penal institution or is released by a court on community supervision or juvenile probation [~~or community supervision~~]; or

(2) the department sends written notice to the person of the requirements of this article.

(b) The person shall annually renew in person each driver's license or personal identification certificate issued by the department to the person, including each renewal, duplicate, or corrected license or certificate, until the person's duty to register under this chapter expires.

Art. 62.061. NOTIFICATION OF CERTAIN PREMISES OWNERS, MANAGERS, OR ADMINISTRATORS. (a) For purposes of this article, "playground," "premises," "school," "video arcade facility," and "youth center" have the meanings assigned by Section 481.134, Health and Safety Code.

(b) This article applies to a person required to register under this chapter only if the victim of the offense or conduct on which the registration requirement is based was, at the time of the offense or conduct, a child younger than 17 years of age.

(c) Before or immediately after entering a playground, a school, a video arcade facility, a youth center, a public or private institution of higher education, or any premises owned or operated by a playground, school, video arcade facility, youth center, or public or private institution of higher education, a person required to register under this chapter shall inform the owner, manager, or administrator of the facility, orally or in writing, of:

(1) the person's name;

(2) the person's registration status under this chapter;

(3) the person's presence at the facility; and

(4) the estimated period the person intends to remain in, on, or at the facility.

(d) If a person required to register under this chapter intends to enter a facility described by Subsection (c) more than once, the person may use one or more written notifications to inform the owner, manager, or administrator of the facility of the person's intent to enter the facility repeatedly. A written

notification under this subsection must contain:

- (1) the person's name;
- (2) the person's registration status under this chapter;
- (3) a statement of the person's intended presence at the facility; and
- (4) the dates and estimated periods the person intends to remain in, on, or at the facility.

(e) An owner, manager, or administrator of a facility described by Subsection (c):

(1) may provide a chaperon to accompany the person while the person is in, on, or at the facility;

(2) shall maintain a confidential record of all information received under Subsection (c) or (d); and

(3) except as provided by Article 62.009(d), may not disclose any information received under Subsection (c) or (d) to any person except a peace officer performing a duty of the peace officer.

(f) The requirements of this article are in addition to any requirements associated with the imposition of a child safety zone on the person under Section 508.187, Government Code, or Section 13B, Article 42.12.

Art. 62.062. DNA SPECIMEN. A person required to register under this chapter shall comply with a request for a DNA specimen made by a law enforcement agency under Section 411.1473, Government Code.

#### SUBCHAPTER C. EXPIRATION OF DUTY TO REGISTER; GENERAL

##### PENALTIES FOR NONCOMPLIANCE

Art. 62.101. EXPIRATION OF DUTY TO REGISTER. (a) Except as provided by Subsection (b), the duty to register for a person ends when the person dies if the person has a reportable conviction or adjudication, other than an adjudication of delinquent conduct, for:

- (1) a sexually violent offense;
- (2) an offense under Section 25.02, 43.05(a)(2), or 43.26, Penal Code;

(3) an offense under Section 21.11(a)(2), Penal Code, if before or after the person is convicted or adjudicated for the offense under Section 21.11(a)(2), Penal Code, the person receives or has received another reportable conviction or adjudication, other than an adjudication of delinquent conduct, for an offense or conduct that requires registration under this chapter; or

(4) an offense under Section 20.02, 20.03, or 20.04, Penal Code, if:

(A) the judgment in the case contains an affirmative finding under Article 42.015 or, for a deferred adjudication, the papers in the case contain an affirmative finding that the victim or intended victim was younger than 17 years of age; and

(B) before or after the person is convicted or adjudicated for the offense under Section 20.02, 20.03, or 20.04, Penal Code, the person receives or has received another reportable conviction or adjudication, other than an adjudication of delinquent conduct, for an offense or conduct that requires registration under this chapter.

(b) The duty to register for a person otherwise subject to Subsection (a) ends on the 10th anniversary of the date on which the person is released from a penal institution or discharges community supervision or the court dismisses the criminal proceedings against the person and discharges the person, whichever date is later, if the person's duty to register is based on a conviction or an order of deferred adjudication in a cause that was transferred to a district court or criminal district court under Section 54.02, Family Code.

(c) The duty to register for a person with a reportable conviction or adjudication for an offense other than an offense described by Subsection (a) ends:

(1) if the person's duty to register is based on an adjudication of delinquent conduct, on the 10th anniversary of the date on which the disposition is made or the person completes the terms of the disposition, whichever date is later; or

(2) if the person's duty to register is based on a conviction or on an order of deferred adjudication, on the 10th anniversary of the date on which the court dismisses the criminal proceedings

against the person and discharges the person, the person is released from county jail, or the person discharges community supervision, whichever date is later.

~~[Art. 62.07. REMEDIES RELATED TO PUBLIC NOTICE. A person subject to registration under this chapter may petition the district court for injunctive relief to restrain a local law enforcement authority from publishing notice in a newspaper as required by Article 62.03 or 62.04. The court may issue a temporary restraining order under this article before notice is served and a hearing is held on the matter. After a hearing on the matter, the court may grant any injunctive relief warranted by the facts, including a restraining order or a temporary or permanent injunction, if the person subject to registration under this chapter proves by a preponderance of the evidence specific facts indicating that newspaper publication under Article 62.03 or 62.04 would place the person's health and well-being in immediate danger.~~

~~[Art. 62.08. CENTRAL DATABASE; PUBLIC INFORMATION. (a) The department shall maintain a computerized central database containing only the information required for registration under this chapter.~~

~~[(b) The information contained in the database is public information, with the exception of any information:~~

~~[(1) regarding the person's social security number, driver's license number, or telephone number;~~

~~[(2) that is required by the department under Article 62.02(b)(7); or~~

~~[(3) that would identify the victim of the offense for which the person is subject to registration.~~

~~[(c) Notwithstanding Chapter 730, Transportation Code, the department shall maintain in the database, and shall post on any department website related to the database, any photograph of the person that is available through the process for obtaining or renewing a personal identification certificate or driver's license under Section 521.103 or 521.272, Transportation Code. The department shall update the~~

~~photograph in the database and on the website annually or as the photograph otherwise becomes available through the renewal process for the certificate or license.~~

~~[(d) A local law enforcement authority shall release public information described under Subsection (b) to any person who submits to the authority a written request for the information. The authority may charge the person a fee not to exceed the amount reasonably necessary to cover the administrative costs associated with the authority's release of information to the person under this subsection.~~

~~[(e) The department shall provide a licensing authority with notice of any person required to register under this chapter who holds or seeks a license that is issued by the authority. The department shall provide the notice required by this subsection as the applicable licensing information becomes available through the person's registration or verification of registration.~~

~~[(f) On the written request of a licensing authority that identifies an individual and states that the individual is an applicant for or a holder of a license issued by the authority, the department shall release any information described by Subsection (a) to the licensing authority.~~

~~[(g) For the purposes of Subsections (e) and (f):~~

~~[(1) "License" means a license, certificate, registration, permit, or other authorization that:~~

~~[(A) is issued by a licensing authority; and~~

~~[(B) a person must obtain to practice or engage in a particular business, occupation, or profession.~~

~~[(2) "Licensing authority" means a department, commission, board, office, or other agency of the state or a political subdivision of the state that issues a license.~~

~~[(h) Not later than the third day after the date on which the applicable information becomes available through the person's registration or verification of registration or under Article 62.05, the department shall send notice of any person required to register under this chapter who is or will be~~

employed, carrying on a vocation, or a student at a public or private institution of higher education in this state to:

~~[(1) for an institution in this state:~~

~~[(A) the authority for campus security for that institution; or~~

~~[(B) if an authority for campus security for that institution does not exist, the~~

~~local law enforcement authority of:~~

~~[(i) the municipality in which the institution is located; or~~

~~[(ii) the county in which the institution is located, if the institution is not located in a municipality; or~~

~~[(2) for an institution in another state, any existing authority for campus security at that institution.~~

~~[(i) On the written request of an institution of higher education described by Subsection (h) that identifies an individual and states that the individual has applied to work or study at the institution, the department shall release any information described by Subsection (a) to the institution.~~

~~[Art. 62.085. INFORMATION PROVIDED TO PEACE OFFICER. The department shall establish a procedure by which a peace officer or employee of a law enforcement agency who provides the department with a driver's license, personal identification certificate, or license plate number is automatically provided information as to whether the person to whom the driver's license or personal identification certificate is issued is required to register under this chapter or whether the license plate number is entered in the computerized central database under Article 62.08 as assigned to a vehicle owned or driven by a person required to register under this chapter.~~

~~[Art. 62.09. IMMUNITY FOR RELEASE OF PUBLIC INFORMATION. (a) The department, a penal institution, a local law enforcement authority, or an authority for campus security may release to the public information regarding a person required to register only if the information is public information under this chapter.~~

~~[(b) An individual, agency, entity, or authority is not liable under Chapter 101, Civil Practice and Remedies Code, or any other law for damages arising from conduct authorized by Subsection (a).~~

~~[(c) For purposes of determining liability, the release or withholding of information by an appointed or elected officer of an agency, entity, or authority is a discretionary act.~~

~~[(d) A private primary or secondary school, public or private institution of higher education, or administrator of a private primary or secondary school or public or private institution of higher education may release to the public information regarding a person required to register only if the information is public information under this chapter and is released to the administrator under Article 62.03, 62.04, 62.064, or 62.08. A private primary or secondary school, public or private institution of higher education, or administrator of a private primary or secondary school or public or private institution of higher education is not liable under any law for damages arising from conduct authorized by this subsection.~~

~~[Art. 62.091. GENERAL IMMUNITY. The following persons are immune from liability for good faith conduct under this chapter:~~

~~[(1) an employee or officer of the Texas Department of Criminal Justice, the Texas Youth Commission, the Texas Juvenile Probation Commission, or the Department of Public Safety;~~

~~[(2) an employee or officer of a community supervision and corrections department or a juvenile probation department; and~~

~~[(3) a member of the judiciary.]~~

Art. 62.102 [62.10]. FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS. (a)

A person commits an offense if the person is required to register and fails to comply with any requirement of this chapter.

(b) An offense under this article is:

(1) a state jail felony if the actor is a person whose duty to register expires under Article 62.101(b) or (c) [~~62.12(b)~~];

(2) a felony of the third degree if the actor is a person whose duty to register expires under Article 62.101(a) [~~62.12(a)~~] and who is required to verify registration once each year under Article 62.058 [~~62.06~~]; and

(3) a felony of the second degree if the actor is a person whose duty to register expires under Article 62.101(a) [~~62.12(a)~~] and who is required to verify registration once each 90-day period under Article 62.058 [~~62.06~~].

(c) If it is shown at the trial of a person for an offense under this article that the person has previously been convicted of an offense under this article, the punishment for the offense is increased to the punishment for the next highest degree of felony.

#### SUBCHAPTER D. PROVISIONS APPLICABLE TO CERTAIN

##### WORKERS AND STUDENTS

Art. 62.151. DEFINITIONS. For purposes of this subchapter, a person:

(1) is employed or carries on a vocation if the person works or volunteers on a full-time or part-time basis for a consecutive period exceeding 14 days or for an aggregate period exceeding 30 days in a calendar year;

(2) works regardless of whether the person works for compensation or for governmental or educational benefit; and

(3) is a student if the person enrolls on a full-time or part-time basis in any educational facility, including:

(A) a public or private primary or secondary school, including a high school or alternative learning center; or

(B) a public or private institution of higher education.

Art. 62.152. REGISTRATION OF CERTAIN WORKERS OR STUDENTS. (a) A person is subject to this subchapter and, except as otherwise provided by this article, to the other subchapters of this chapter if the person:

(1) has a reportable conviction or adjudication;

(2) resides in another state; and

(3) is employed, carries on a vocation, or is a student in this state.

(b) A person described by Subsection (a) is subject to the registration and verification requirements of Articles 62.051 and 62.058 and to the change of address requirements of Article 62.055, except that the registration and verification and the reporting of a change of address are based on the municipality or county in which the person works or attends school. The person is subject to the school notification requirements of Articles 62.053-62.055, except that notice provided to the superintendent and any administrator is based on the public school district in which the person works or attends school.

(c) A person described by Subsection (a) is not subject to Article 62.101.

(d) The duty to register for a person described by Subsection (a) ends when the person no longer works or studies in this state, provides notice of that fact to the local law enforcement authority in the municipality or county in which the person works or attends school, and receives notice of verification of that fact from the authority. The authority must verify that the person no longer works or studies in this state and must provide to the person notice of that verification within a reasonable time.

(e) Notwithstanding Subsection (a), this article does not apply to a person who has a reportable conviction or adjudication, who resides in another state, and who is employed, carries on a vocation, or is a student in this state if the person establishes another residence in this state to work or attend school in this state. However, that person remains subject to the other articles of this chapter based on that person's residence in this state.

Art. 62.153. REGISTRATION OF WORKERS OR STUDENTS AT INSTITUTIONS OF HIGHER EDUCATION. (a) Not later than the seventh day after the date on which the person begins to work or attend school, a person required to register under Article 62.152 or any other provision of this chapter who is employed, carries on a vocation, or is a student at a public or private institution of higher education in this state shall report that fact to:

(1) the authority for campus security for that institution; or

(2) if an authority for campus security for that institution does not exist, the local law enforcement authority of:

(A) the municipality in which the institution is located; or

(B) the county in which the institution is located, if the institution is not located in a municipality.

(b) A person described by Subsection (a) shall provide the authority for campus security or the local law enforcement authority with all information the person is required to provide under Article 62.051(c).

(c) A person described by Subsection (a) shall notify the authority for campus security or the local law enforcement authority not later than the seventh day after the date of termination of the person's status as a worker or student at the institution.

(d) The authority for campus security or the local law enforcement authority shall promptly forward to the administrative office of the institution any information received from the person under this article and any information received from the department under Article 62.005.

(e) Subsection (a)(2) does not require a person to register with a local law enforcement authority if the person is otherwise required by this chapter to register with that authority.

(f) This article does not impose the requirements of public notification or notification to public or private primary or secondary schools on:

(1) an authority for campus security; or

(2) a local law enforcement authority, if those requirements relate to a person about whom the authority is not otherwise required by this chapter to make notifications.

(g) Notwithstanding Article 62.059, the requirements of this article supersede those of Article 62.059 for a person required to register under both this article and Article 62.059.

#### SUBCHAPTER E. PROVISIONS APPLICABLE TO PERSONS

## SUBJECT TO CIVIL COMMITMENT

Art. 62.201. ADDITIONAL PUBLIC NOTICE FOR INDIVIDUALS SUBJECT TO CIVIL COMMITMENT. (a) On receipt of notice under this chapter that a person subject to registration who is civilly committed as a sexually violent predator is due to be released from a penal institution or intends to move to a new residence in this state, the department shall, not later than the seventh day after the date on which the person is released or the 10th day after the date on which the person moves, provide written notice mailed or delivered to at least each address, other than a post office box, within a one-mile radius, in an area that has not been subdivided, or a three-block area, in an area that has been subdivided, of the place where the person intends to reside.

(b) The department shall provide the notice in English and Spanish and shall include in the notice any information that is public information under this chapter. The department may not include any information that is not public information under this chapter.

(c) The department shall establish procedures for a person with respect to whom notice is provided under this article to pay to the department all costs incurred by the department in providing the notice. The person shall pay those costs in accordance with the procedures established under this subsection.

(d) The department's duty to provide notice under this article in regard to a particular person ends on the date on which a court releases the person from all requirements of the civil commitment process.

Art. 62.202. VERIFICATION OF INDIVIDUALS SUBJECT TO COMMITMENT. (a) Notwithstanding Article 62.058, if an individual subject to registration under this chapter is civilly committed as a sexually violent predator, the person shall report to the local law enforcement authority designated as the person's primary registration authority by the department not less than once in each 30-day period following the date the person first registered under this chapter to verify the information in the registration form maintained by the authority for that person. For purposes of this subsection, a person

complies with a requirement that the person register within a 30-day period following a date if the person registers at any time on or after the 27th day following that date but before the 33rd day after that date.

(b) On the date a court releases a person described by Subsection (a) from all requirements of the civil commitment process:

(1) the person's duty to verify registration as a sex offender is no longer imposed by this article; and

(2) the person is required to verify registration as provided by Article 62.058.

Art. 62.203 [~~62.104~~]. FAILURE TO COMPLY: INDIVIDUALS SUBJECT TO COMMITMENT. (a) A person commits an offense if the person, after commitment as a sexually violent predator but before the person is released from all requirements of the civil commitment process, fails to comply with any requirement of this chapter.

(b) An offense under this article [~~section~~] is a felony of the second degree.

#### SUBCHAPTER F. REMOVAL OF REGISTRATION INFORMATION

~~[Art. 62.11. APPLICABILITY. (a) This chapter applies only to a reportable conviction or adjudication occurring on or after September 1, 1970, except that the provisions of Articles 62.03 and 62.04 of this chapter relating to the requirement of newspaper publication apply only to a reportable conviction or adjudication occurring on or after:~~

~~[(1) September 1, 1997, if the conviction or adjudication relates to an offense under Section 43.05, Penal Code; or~~

~~[(2) September 1, 1995, if the conviction or adjudication relates to any other offense listed in Article 62.01(5).~~

~~[(b) Except as provided by Subsection (c), the duties imposed on a person required to register under this chapter on the basis of a reportable conviction or adjudication, and the corresponding duties and powers of other entities in relation to the person required to register on the basis of that conviction or adjudication, are not affected by:~~

~~[(1) an appeal of the conviction or adjudication; or~~

~~[(2) a pardon of the conviction or adjudication.~~

~~[(c) If a conviction or adjudication that is the basis of a duty to register under this chapter is set aside on appeal by a court or if the person required to register under this chapter on the basis of a conviction or adjudication receives a pardon on the basis of subsequent proof of innocence, the duties imposed on the person by this chapter and the corresponding duties and powers of other entities in relation to the person are terminated.~~

~~[Art. 62.12. EXPIRATION OF DUTY TO REGISTER. (a) The duty to register for a person ends when the person dies if the person has a reportable conviction or adjudication, other than an adjudication of delinquent conduct, for:~~

~~[(1) a sexually violent offense;~~

~~[(2) an offense under Section 25.02, 43.05(a)(2), or 43.26, Penal Code;~~

~~[(3) an offense under Section 21.11(a)(2), Penal Code, if before or after the person is convicted or adjudicated for the offense under Section 21.11(a)(2), Penal Code, the person receives or has received another reportable conviction or adjudication, other than an adjudication of delinquent conduct, for an offense or conduct that requires registration under this chapter; or~~

~~[(4) an offense under Section 20.02, 20.03, or 20.04, Penal Code, or an attempt, conspiracy, or solicitation to commit one of those offenses, if:~~

~~[(A) the judgment in the case contains an affirmative finding under Article 42.015 or, for a deferred adjudication, the papers in the case contain an affirmative finding that the victim or intended victim was younger than 17 years of age; and~~

~~[(B) before or after the person is convicted or adjudicated for the offense under Section 20.02, 20.03, or 20.04, Penal Code, the person receives or has received another reportable conviction or adjudication, other than an adjudication of delinquent conduct, for an offense or conduct that requires registration under this chapter.~~

~~[(b) The duty to register for a person with a reportable conviction or adjudication for an offense other than an offense described by Subsection (a) ends:~~

~~[(1) if the person's duty to register is based on an adjudication of delinquent conduct, on the 10th anniversary of the date on which the disposition is made or the person completes the terms of the disposition, whichever date is later; or~~

~~[(2) if the person's duty to register is based on a conviction or on an order of deferred adjudication, on the 10th anniversary of the date on which the court dismisses the criminal proceedings against the person and discharges the person, the person is released from county jail, or the person discharges community supervision, whichever date is later.~~

~~[Art. 62.13. HEARING TO DETERMINE NEED FOR REGISTRATION OF A JUVENILE.~~

~~(a) A person who has an adjudication of delinquent conduct that would otherwise be reportable under Article 62.01(5) does not have a reportable adjudication of delinquent conduct for purposes of this chapter if the juvenile court enters an order under this article excusing compliance by the person with the registration requirements of this chapter.~~

~~[(b) During or after disposition of a case under Section 54.04, Family Code, for adjudication of an offense for which registration is required under this chapter, the juvenile court on motion of the respondent shall conduct a hearing to determine whether the interests of the public require registration under this chapter. The motion may be filed and the hearing held regardless of whether the respondent is under 18 years of age.~~

~~[(c) The hearing is without a jury and the burden of persuasion is on the respondent to show by a preponderance of evidence that the criteria of Subsection (e) have been met. The court at the hearing may make its determination based on:~~

~~[(1) the receipt of exhibits;~~

~~[(2) the testimony of witnesses;~~

~~[(3) representations of counsel for the parties; or~~

~~[(4) the contents of a social history report prepared by the juvenile probation department that may include the results of testing and examination of the respondent by a psychologist, psychiatrist, or counselor.~~

~~[(d) All written matter considered by the court shall be disclosed to all parties as provided by Section 54.04(b), Family Code.~~

~~[(e) The court shall enter an order excusing compliance with the registration requirements of this chapter if the court determines:~~

~~[(1) that the protection of the public would not be increased by registration of the respondent under this chapter; or~~

~~[(2) that any potential increase in protection of the public resulting from registration is clearly outweighed by the anticipated substantial harm to the respondent and the respondent's family that would result from registration under this chapter.~~

~~[(f) The prosecuting attorney may waive the state's right to a hearing under this article and agree that registration under this chapter is not required. If the waiver is entered under a plea agreement, the court shall without a hearing enter an order excusing compliance with the registration requirements of this chapter or, under Section 54.03(j), Family Code, inform the respondent that the court believes a hearing under this article is required and give the respondent the opportunity to withdraw the respondent's plea of guilty, nolo contendere, or true or to affirm the respondent's plea and participate in the hearing. If the waiver is entered other than under a plea agreement, the court shall without a hearing enter an order excusing compliance with the registration requirements of this chapter. The waiver must state whether or not it is entered under a plea agreement. The respondent may as part of a plea agreement promise not to file a motion seeking an order excusing registration, in which case the court may not recognize the motion.~~

~~[(g) Notwithstanding Section 56.01, Family Code, on entry by a juvenile court of an order under Subsection (e) excusing registration under this chapter, the prosecuting attorney may appeal that order by~~

~~giving notice of appeal within the time required under Rule 26.2(b), Texas Rules of Appellate Procedure. The appeal is civil and the standard of review in the appellate court is whether the juvenile court committed procedural error or abused its discretion in excusing compliance with registration. The appeal is limited to review of the order excusing compliance with registration and may not include any other issues in the case.~~

~~[(h) The respondent may under Section 56.01, Family Code, appeal the juvenile court's order requiring registration in the same manner as the appeal of any other legal issue in the case. The standard of review in the appellate court is whether the juvenile court committed procedural error or abused its discretion in not excusing compliance with registration.~~

~~[(i) If the juvenile court enters an order excusing registration, the respondent may not be required to register in this or any other state for the offense for which registration was excused.~~

~~[(j) After a hearing under Subsection (b) or under a plea agreement under Subsection (f), the juvenile court may enter an order deferring decision on requiring registration until the respondent has completed treatment for the respondent's sexual offense as a condition of probation or while committed to the Texas Youth Commission. The court retains discretion to require or to excuse registration at any time during the treatment or on its successful or unsuccessful completion. During the period of deferral, registration may not be required. Following successful completion of treatment, registration is excused unless a hearing under this article is held on motion of the state and the court determines the interests of the public require registration. Not later than the 10th day after the date of the respondent's successful completion of treatment, the treatment provider shall notify the juvenile court and prosecuting attorney of the completion.~~

~~[(k) After a hearing under Subsection (b) or under a plea agreement under Subsection (f), the juvenile court may enter an order requiring the respondent to register as a sex offender but provide that the registration information is not public information and is restricted to use by law enforcement and criminal justice agencies and public or private institutions of higher education. Information obtained~~

~~under this subsection may not be posted on the Internet or released to the public.~~

~~[(l) A person who has registered as a sex offender for an adjudication of delinquent conduct, regardless of when the delinquent conduct or the adjudication for the conduct occurred, may file a motion in the adjudicating juvenile court for a hearing seeking excusal from registration as provided by Subsection (e) or seeking under Subsection (k) an order that the registration become nonpublic.~~

~~[(m) The person may file a motion under Subsection (l) in the original juvenile case regardless of whether the person is at the time of filing 18 years of age or older. Notice of the motion shall be provided to the prosecuting attorney. A hearing on the motion shall be provided as in other cases under this article.~~

~~[(n) Only one motion may be filed under Subsection (l) if a previous motion under this article has been filed concerning that case.~~

~~[(o) To the extent feasible, the motion under Subsection (l) shall identify those public and private agencies and organizations, including public or private institutions of higher education, that possess sex offender registration information about the case.~~

~~[(p) The juvenile court, after a hearing, may:~~

~~[(1) deny the motion;~~

~~[(2) grant the motion to excuse all registration; or~~

~~[(3) grant the motion to change the registration from public to nonpublic.~~

~~[(q) If the court grants the motion, the clerk of the court shall by certified mail, return receipt requested, send a copy of the order to the department, to each local law enforcement authority that the person has proved to the juvenile court has registration information about the person, and to each public or private agency or organization that the person has proved to the juvenile court has information about the person that is currently available to the public with or without payment of a fee. The clerk of the court shall by certified mail, return receipt requested, send a copy of the order to any other agency or organization designated by the person. The person shall identify the agency or organization and its~~

address and pay a fee of \$20 to the court for each agency or organization the person designates.

~~[(q) If the court grants the motion, a copy of the court's order shall be sent to:~~

~~[(1) each public or private agency or organization that the court determines may be in possession of sex offender registration information pertaining to the person required to register under this chapter; and~~

~~[(2) at the request of the person required to register under this chapter, each public or private agency or organization that at any time following the initial dissemination of the order under Subdivision (1) gains possession of sex offender registration information pertaining to that person, if the agency or organization did not otherwise receive a copy of the order under Subdivision (1).~~

~~[(q-1) An order under Subsection (q) shall require the recipient to conform its records to the court's orders either by deleting the sex offender registration information or changing its status to nonpublic, as the order requires. A public or private institution of higher education may not be required to delete the sex offender registration information under this subsection.~~

~~[(r) A private agency or organization that possesses sex offender registration information it obtained from a state, county, or local governmental entity is required to conform its records to the court's order on or before the 30th day after the date of its entry. Failure to comply in that period automatically bars an agency or organization, other than a public or private institution of higher education, from obtaining sex offender registration information from any state, county, or local governmental entity in this state in the future.~~

~~[(s) A person required to register as a sex offender in this state because of an out-of-state adjudication of delinquent conduct may file in the juvenile court of the person's county of residence a petition under Subsection (a) for an order to excuse compliance with this chapter. If the person is already registered as a sex offender in this state because of an out-of-state adjudication of delinquent conduct, the person may file in the juvenile court of the person's county of residence a petition under Subsection (1) for an order removing the person from sex offender registries in this state. On receipt of a petition to~~

~~excuse compliance or for removal, the juvenile court shall conduct a hearing and make rulings as in other cases under this article. An order entered under this subsection requiring removal of registration information applies only to registration information derived from registration in this state.]~~

Art. 62.251 [~~62.14~~]. REMOVING [JUVENILE] REGISTRATION INFORMATION WHEN DUTY TO REGISTER EXPIRES. (a) When a person is no longer required to register as a sex offender under this chapter [~~for an adjudication of delinquent conduct~~], the department shall remove all information about the person from the sex offender registry.

(b) The duty to remove information under Subsection (a) arises if:

(1) the department has received notice from a local law enforcement authority under Subsection (c) or (d) that the person is no longer required to register or will no longer be required to renew registration and the department verifies the correctness of that information;

(2) the [juvenile] court having jurisdiction over [~~that adjudicated~~] the case for which registration is required requests removal and the department determines that the duty to register has expired; or

(3) the person or the person's representative requests removal and the department determines that the duty to register has expired.

(c) When a person required to register under this chapter [~~for an adjudication of delinquent conduct~~] appears before a local law enforcement authority to renew or modify registration information, the authority shall determine whether the duty to register has expired. If the authority determines that the duty to register has expired, the authority shall remove all information about the person from the sex offender registry and notify the department that the person's duty to register has expired.

(d) When a person required to register under this chapter [~~for an adjudication of delinquent conduct~~] appears before a local law enforcement authority to renew registration information, the authority shall determine whether the renewal is the final annual renewal of registration required by law. If the authority determines that the person's duty to register will expire before the next annual renewal is

scheduled, the authority shall automatically remove all information about the person from the sex offender registry on expiration of the duty to register and notify the department that the information about the person has been removed from the registry.

(e) When the department has removed information under Subsection (a), the department shall notify all local law enforcement authorities that have provided registration information to the department about the person of the removal. A local law enforcement authority that receives notice from the department under this subsection shall remove all registration information about the person from its registry.

(f) When the department has removed information under Subsection (a), the department shall notify all public and private agencies or organizations to which it has provided registration information about the person of the removal. On receiving notice, the public or private agency or organization shall remove all registration information about the person from any registry the agency or organization maintains that is accessible to the public with or without charge.

SUBCHAPTER G. EXEMPTIONS FROM REGISTRATION FOR  
JUVENILES AND CERTAIN YOUNG SEX OFFENDERS

Art. 62.301. PETITION FOR EXEMPTION. (a) If eligible under Article 62.302, a person required to register under this chapter may petition the court having jurisdiction over the case for an order exempting the person from registration under this chapter.

(b) The petition may be filed at any time:

(1) during or after the disposition of the person's case under Section 54.04, Family Code;

(2) after the person is sentenced; or

(3) after the person is placed on deferred adjudication community supervision.

(c) The petition must identify and provide the mailing address for any local law enforcement authority or any public or private agency or organization that the petitioner believes possesses sex offender registration information with respect to the petitioner at the time the petition is filed.

Art. 62.302. ELIGIBILITY FOR EXEMPTION. (a) A person is eligible to file a petition under this subchapter if:

(1) the person is required to register only as a result of one or more adjudications of delinquent conduct; or

(2) the person is required to register only as a result of a single reportable conviction or adjudication, other than an adjudication of delinquent conduct, and the court has entered in the appropriate judgment or has filed with the appropriate papers a statement of an affirmative finding described by Article 42.017 or Section 5(g), Article 42.12.

(b) A person who is required to register or who has registered under this chapter for one or more adjudications of delinquent conduct is eligible to file a petition under this subchapter regardless of when the delinquent conduct or the adjudication for the conduct occurred and regardless of the age of the person at the time of filing.

(c) A defendant who before September 1, 2001, is convicted of or placed on deferred adjudication community supervision for an offense under Section 21.11, 22.011, 22.021, or 43.25, Penal Code, is eligible to file a petition under this subchapter. The court may consider the petition if the defendant has registered under this chapter and the petition states and the court finds that the defendant would have been entitled to the entry of an affirmative finding under Article 42.017 or Section 5(g), Article 42.12, as appropriate, had the conviction or placement on deferred adjudication community supervision occurred on or after September 1, 2001.

(d) A person whose petition is denied under this subchapter is not eligible to file a subsequent petition under this subchapter until the fifth anniversary of the date the person's last petition was denied.

(e) A person who, as part of a plea agreement, promises not to file a petition under this subchapter is not eligible to file a petition under this subchapter.

Art. 62.303. VENUE FOR CERTAIN CONVICTIONS OR ADJUDICATIONS. A person required to register as a sex offender under this chapter only because of a reportable conviction or

adjudication described by Article 62.001(5)(I) or (J) or because of Article 62.052 may file a petition under this subchapter in the appropriate court of the person's county of residence.

Art. 62.304. HEARING ON PETITION; ORDER. (a) After the filing of a petition under this subchapter, the court shall hold a hearing without a jury and may issue an order exempting the petitioner from registration under this chapter if it appears by a preponderance of the evidence that:

(1) as presented by a registered sex offender treatment provider, the exemption does not threaten public safety; and

(2) for a petition filed under Article 62.302(a)(2), the petitioner's conduct did not occur without the consent of the victim or intended victim as described by Section 22.011(b), Penal Code.

(b) For a petition filed under Article 62.302(a)(1), all written matter considered by the court shall be disclosed to all parties as provided by Section 54.04(b), Family Code.

Art. 62.305. WAIVER OF HEARING. (a) Notwithstanding Article 62.304, the prosecuting attorney may waive the mandatory hearing under this subchapter and agree that registration under this chapter is not required.

(b) On a waiver under Subsection (a), the court shall, without a hearing, enter an order exempting the petitioner from registration under this chapter.

Art. 62.306. IMPLEMENTATION OF ORDER. (a) If the court enters an order under this subchapter, the clerk of the court shall by certified mail, return receipt requested, send a copy of the order to:

(1) the department;

(2) each local law enforcement authority that the person has proven has registration information about the person;

(3) each public or private agency or organization that the person has proven has registration information about the person that is currently available to the public with or without payment of a fee; and

(4) any other agency or organization designated at any time by the petitioner, if the agency or organization has not already received a copy of the order under this subsection.

(b) The petitioner shall pay to the court the cost of mailing the order to each agency or organization the person designates under Subsection (a)(4).

Art. 62.307. EFFECT AND DURATION OF ORDER. (a) An order issued under this subchapter does not expire, but the court issuing the order shall permanently withdraw the order if, after the order is issued, the petitioner receives a reportable conviction or adjudication.

(b) If a court enters an order under this subchapter, the petitioner may not be required to register for the offense or conduct for which compliance with registration was excused.

Art. 62.308. APPEAL OF ORDER ISSUED BY JUVENILE COURT. (a) Notwithstanding Section 56.01, Family Code, if a juvenile court issues an order under this subchapter, the prosecuting attorney may appeal the order by giving notice of appeal within the time required under Rule 26.2(b), Texas Rules of Appellate Procedure. The appeal is civil, and the standard of review in the appellate court is whether the juvenile court committed procedural error or abused its discretion in excusing compliance with registration. The appeal is limited to review of the order excusing compliance with registration and may not include any other issues in the case.

(b) The petitioner may appeal the order under Section 56.01, Family Code, in the same manner as the appeal of any other legal issue in the case. The standard of review in the appellate court is whether the juvenile court committed procedural error or abused its discretion in not excusing compliance with registration.

Art. 62.309. APPEAL OF ORDER ISSUED BY COURT OTHER THAN JUVENILE COURT. (a) If a court other than a juvenile court issues an order under this subchapter, the prosecuting attorney may appeal the order in accordance with Article 44.01. The order does not take effect until the mandate following the appeal is issued.

(b) The petitioner may appeal the order in the same manner as an appeal of any other legal issue

in the case.

SECTION 1.02. Chapter 13, Code of Criminal Procedure, is amended by adding Article 13.30 to read as follows:

Art. 13.30. FAILURE TO COMPLY WITH SEX OFFENDER REGISTRATION STATUTE.

An offense under Chapter 62 may be prosecuted in:

(1) any county in which an element of the offense occurs;

(2) the county in which the person subject to Chapter 62 last registered, verified registration, or otherwise complied with a requirement of Chapter 62;

(3) the county in which the person required to register under Chapter 62 has indicated that the person intends to reside; or

(4) any county in which the person required to register under Chapter 62 is placed under custodial arrest for an offense subsequent to the person's most recent reportable conviction or adjudication under Chapter 62.

SECTION 1.03. Article 26.13(h), Code of Criminal Procedure, is amended to read as follows:

(h) The court must substantially comply with Subsection (a)(5). The failure of the court to comply with Subsection (a)(5) is not a ground for the defendant to set aside the conviction, sentence, or plea. [~~Before accepting a plea of guilty or nolo contendere from a defendant described by Subsection (a)(5), the court shall ascertain whether the attorney representing the defendant has advised the defendant regarding registration requirements under Chapter 62.~~]

SECTION 1.04. Article 44.01, Code of Criminal Procedure, is amended by adding Subsection (l) to read as follows:

(l) The state is entitled to appeal an order entered under Subchapter G, Chapter 62, that exempts a person from complying with the requirements of Chapter 62.

SECTION 1.05. Subchapter G, Chapter 411, Government Code, is amended by adding Section 411.1473 to read as follows:

Sec. 411.1473. DNA RECORDS OF CERTAIN REGISTERED SEX OFFENDERS. (a) This section applies only to a person who is required to register under Chapter 62, Code of Criminal Procedure.

(b) The department by rule shall require a law enforcement agency serving as a person's primary registration authority under Chapter 62, Code of Criminal Procedure, to:

(1) take one or more specimens from a person described by Subsection (a) for the purpose of creating a DNA record; and

(2) preserve the specimen and maintain a record of the collection of the specimen.

(c) A law enforcement agency taking a specimen under this section may either send the specimen to the director or send to the director an analysis of the specimen performed by a laboratory chosen by the agency and approved by the director.

(d) A law enforcement agency is not required to take and a person is not required to provide a specimen under this section if the person is required to and has provided a specimen under this chapter or other law.

SECTION 1.06. Section 508.186, Government Code, is amended to read as follows:

Sec. 508.186. SEX OFFENDER REGISTRATION. ~~[(a)]~~ A parole panel shall require as a condition of parole or mandatory supervision that a releasee required to register as a sex offender under Chapter 62, Code of Criminal Procedure:

(1) register under that chapter; and

(2) ~~[pay to the releasee's supervising officer an amount equal to the cost, as evidenced by written receipt, incurred by the applicable local law enforcement authority for providing notice for publication to a newspaper as required by that chapter; and~~

~~[(3)]~~ submit a blood sample or other specimen to the Department of Public Safety under Subchapter G, Chapter 411, for the purpose of creating a DNA record of the releasee, unless the releasee has already submitted the required specimen under other state law.

~~[(a-1) A political subdivision served by the local law enforcement authority may bill any unpaid amount under Subsection (a)(2), identified separately, within a bill for a utility service provided by the political subdivision to the releasee and may suspend service of the utility to a releasee who is delinquent in payment of the amount until the delinquent claim is fully paid to the political subdivision. In this subsection, "utility service" means water, wastewater, sewer, gas, garbage, electricity, or drainage service.~~

~~[(b) The division or political subdivision, as applicable, shall remit an amount collected under this section to the applicable local law enforcement authority.~~

~~[(c) In a parole or mandatory supervision revocation hearing under Section 508.281 at which it is alleged only that the releasee failed to make a payment under this section, it is an affirmative defense to revocation that the releasee is unable to pay the amount as ordered by a parole panel. The releasee must prove the affirmative defense by a preponderance of the evidence.]~~

SECTION 1.07. Section 521.103, Transportation Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The department may issue an original or renewal personal identification certificate to a person whose driver's license or personal identification certificate record indicates that the person is subject to the registration requirements of Chapter 62, Code of Criminal Procedure, ~~[as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997,]~~ only if the person:

- (1) applies in person for the issuance of a certificate under this section; and
- (2) pays a fee of \$20.

(c) The department shall accept an offender identification card or any other identification card issued to an inmate by the Texas Department of Criminal Justice as proof of the identity of a person who is applying for a personal identification certificate under this section.

SECTION 1.08. Section 521.272, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) The department shall accept an offender identification card or any other identification card issued to an inmate by the Texas Department of Criminal Justice as proof of the identity of a person who is applying for a driver's license under this section.

SECTION 1.09. Section 522.033, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) The department shall accept an offender identification card or any other identification card issued to an inmate by the Texas Department of Criminal Justice as proof of the identity of a person who is applying for a commercial driver's license under this section.

## ARTICLE II. CONFORMING AMENDMENTS

SECTION 2.01. Article 42.016, Code of Criminal Procedure, is amended to read as follows:

Art. 42.016. SPECIAL DRIVER'S LICENSE OR IDENTIFICATION REQUIREMENTS FOR CERTAIN SEX OFFENDERS. If a person is convicted of, receives a grant of deferred adjudication for, or is adjudicated as having engaged in delinquent conduct based on a violation of an offense for which a conviction or adjudication requires registration as a sex offender under Chapter 62, [~~as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997,~~] the court shall:

(1) issue an order requiring the Texas Department of Public Safety to include in any driver's license record or personal identification certificate record maintained by the department for the person an indication that the person is subject to the registration requirements of Chapter 62[~~, as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997,~~];

(2) require the person to apply to the Texas Department of Public Safety in person for an original or renewal driver's license or personal identification certificate not later than the 30th day after the date the person is released or the date the department sends written notice to the person of the requirements of Article 62.060 [~~62.065~~], as applicable, and to annually renew the license or certificate;

(3) notify the person of the consequence of the conviction or order of deferred adjudication as it relates to the order issued under this article; and

(4) send to the Texas Department of Public Safety a copy of the record of conviction, a copy of the order granting deferred adjudication, or a copy of the juvenile adjudication, as applicable, and a copy of the order issued under this article.

SECTION 2.02. Section 2(b), Article 42.22, Code of Criminal Procedure, is amended to read as follows:

(b) The state also has a restitution lien to secure the:

(1) amount of fines or costs entered against a defendant in the judgment in a felony criminal case;

(2) amount of reimbursement for costs of:

(A) confinement ordered under Article 42.038; or

(B) notice provided under Article 62.056 [~~62.03~~] or 62.201[~~62.04~~]; and

(3) amount of damages incurred by the state as a result of the commission of an offense under Section 38.04, Penal Code, in which the defendant used a motor vehicle while the defendant was in flight.

SECTION 2.03. Article 60.051(f), Code of Criminal Procedure, is amended to read as follows:

(f) The department shall maintain in the computerized criminal history system any information the department maintains in the central database under Article 62.005 [~~62.08~~].

SECTION 2.04. Section 12.120(a), Education Code, is amended to read as follows:

(a) A person may not serve as a member of the governing body of a charter holder, as a member of the governing body of an open-enrollment charter school, or as an officer or employee of an open-enrollment charter school if the person:

(1) has been convicted of a felony or a misdemeanor involving moral turpitude;

(2) has been convicted of an offense listed in Section 37.007(a);

(3) has been convicted of an offense listed in Article 62.001(5) [~~62.01(5)~~], Code of Criminal Procedure; or

(4) has a substantial interest in a management company.

SECTION 2.05. Section 45.004(c), Family Code, is amended to read as follows:

(c) In this section, "local law enforcement authority" has the meaning assigned by Article 62.001 [~~62.04~~], Code of Criminal Procedure.

SECTION 2.06. Section 45.103(c), Family Code, is amended to read as follows:

(c) A court may order a change of name under this subchapter for a person subject to the registration requirements of Chapter 62, Code of Criminal Procedure, if, in addition to the requirements of Subsection (a), the person provides the court with proof that the person has notified the appropriate local law enforcement authority of the proposed name change. In this subsection, "local law enforcement authority" has the meaning assigned by Article 62.001 [~~62.04~~], Code of Criminal Procedure.

SECTION 2.07. Section 54.051(h), Family Code, is amended to read as follows:

(h) If the juvenile court places the child on probation for an offense for which registration as a sex offender is required by Chapter 62, Code of Criminal Procedure, and the child registers, the authority of the court to excuse further compliance with the registration requirement under Subchapter G, Chapter 62 [~~Articles 62.13(f)-(r)~~], Code of Criminal Procedure, is transferred to the court to which probation is transferred.

SECTION 2.08. Section 411.0091(b), Government Code, is amended to read as follows:

(b) The sex offender compliance unit shall investigate and arrest individuals determined to have committed a sexually violent offense, as defined by Article 62.001 [~~62.04~~], Code of Criminal Procedure.

SECTION 2.09. Section 411.088(b), Government Code, is amended to read as follows:

(b) The department may not charge for processing an electronic inquiry for information described as public information under Article 62.005 [~~62.08~~], Code of Criminal Procedure, made through the use of the Internet.

SECTION 2.10. Section 109.001(2), Occupations Code, is amended to read as follows:

(2) "Local law enforcement authority" has the meaning assigned by Article 62.001

[~~62.01~~], Code of Criminal Procedure.

SECTION 2.11. Section 38.111(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if the person, while confined in a correctional facility after being charged with or convicted of an offense listed in Article 62.001(5) [~~62.01(5)~~], Code of Criminal Procedure, contacts by letter, telephone, or any other means, either directly or through a third party, a victim of the offense or a member of the victim's family, if:

(1) the victim was younger than 17 years of age at the time of the commission of the offense for which the person is confined; and

(2) the director of the correctional facility has not, before the person makes contact with the victim:

(A) received written and dated consent to the contact from:

(i) a parent of the victim;

(ii) a legal guardian of the victim;

(iii) the victim, if the victim is 17 years of age or older at the time of giving the consent; or

(iv) a member of the victim's family who is 17 years of age or older; and

(B) provided the person with a copy of the consent.

SECTION 2.12. Section 521.101(h), Transportation Code, is amended to read as follows:

(h) The department shall automatically revoke each personal identification certificate issued by the department to a person who:

(1) is subject to the registration requirements of Chapter 62, Code of Criminal Procedure [~~as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997~~]; and

(2) fails to apply to the department for renewal of the personal identification certificate as required by Article 62.060 [~~62.065~~], Code of Criminal Procedure.

SECTION 2.13. Section 521.348(a), Transportation Code, is amended to read as follows:

(a) A driver's license is automatically revoked if the holder of the license:

(1) is subject to the registration requirements of Chapter 62, Code of Criminal Procedure~~[-as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997]~~; and

(2) fails to apply to the department for renewal of the license as required by Article 62.060 ~~[62.065]~~, Code of Criminal Procedure.

### ARTICLE III. TRANSITIONS; EFFECTIVE DATE; REPEALERS

SECTION 3.01. (a) The changes in law made by this Act in amending Chapter 62, Code of Criminal Procedure, apply only to an offense committed on or after the effective date of this Act. For purposes of this subsection, an offense is committed on or after the effective date of this Act if any element of the offense occurs on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and that law is continued in effect for that purpose.

(b) The changes in law made by this Act in amending Chapter 62, Code of Criminal Procedure, apply to a person subject to Chapter 62, Code of Criminal Procedure, for an offense or conduct committed or engaged in before, on, or after the effective date of this Act.

SECTION 3.02. The change in law made by this Act in adding Article 13.30, Code of Criminal Procedure, applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed on or after the effective date of this Act if any element of the offense occurs on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and that law is continued in effect for that purpose.

SECTION 3.03. The change in law made by this Act in amending Article 26.13(h), Code of Criminal Procedure, applies only to a plea of guilty or a plea of nolo contendere that is entered on or after the effective date of this Act. A plea of guilty or a plea of nolo contendere that is entered before the effective date of this Act is governed by the law in effect at the time the plea was entered, and that law is

continued in effect for that purpose.

SECTION 3.04. The change in law made by this Act in repealing Subsections (g) and (h), Section 19, Article 42.12, Code of Criminal Procedure, and in amending Section 508.186, Government Code, applies only to a person who is placed on community supervision or released on parole or mandatory supervision for an offense committed on or after the effective date of this Act. A person who is placed on community supervision or released on parole or mandatory supervision for an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and that law is continued in effect for that purpose. For purposes of this section, an offense is committed on or after the effective date of this Act if any element of the offense occurs on or after the effective date of this Act.

SECTION 3.05. The change in law made by this Act in amending Article 44.01, Code of Criminal Procedure, applies only to an appeal brought by the state on or after the effective date of this Act.

SECTION 3.06. The change in law made by this Act in adding Section 411.1473, Government Code, applies only to a person who, for the first time, must register as a sex offender under Chapter 62, Code of Criminal Procedure, on or after the effective date of this Act.

SECTION 3.07. The changes in law made by this Act in adding Sections 521.103(c), 521.272(d), and 522.033(c), Transportation Code, apply only to a personal identification certificate, driver's license, or commercial driver's license the application for which is made on or after the effective date of this Act.

SECTION 3.08. (a) Subsections (g) and (h), Section 19, Article 42.12, Code of Criminal Procedure, are repealed.

(b) Section 54.051(g), Family Code, is repealed.

SECTION 3.09. This Act takes effect September 1, 2005.



# DISPOSITION TABLE

## CHAPTER 62, CODE OF CRIMINAL PROCEDURE

<u>OLD</u>	<u>NEW</u>
62.01.....	62.001
62.0101.....	62.003
62.0102.....	62.004
62.0105.....	SUBCHAPTER G
62.011.....	62.151
62.02.....	62.051
62.021.....	62.052
62.03.....	62.053
62.031.....	deleted
62.032.....	62.054
62.035.....	62.007
62.04.....	62.055
62.041.....	deleted
62.045.....	62.056
62.0451.....	62.201
62.05.....	62.057
62.06.....	62.058
62.061.....	62.202
62.062.....	62.059
62.063.....	62.152
62.064.....	62.153
62.065.....	62.060
62.07.....	deleted
62.08.....	62.005
62.085.....	62.006
62.09.....	62.009
62.091.....	62.008
62.10.....	62.102
62.101.....	62.203
62.11.....	62.002
62.12.....	62.101
62.13.....	SUBCHAPTER G
62.14.....	62.251

# APPENDIX A

## [TEXT OF THE ORIGINAL SEX OFFENDER REGISTRATION BILL FROM 1991]

Session Laws, 72<sup>nd</sup> Legislature

CHAPTER 572

S.B. No. 259

AN ACT

relating to the establishment of a sexual offender registration program; creating offenses and providing penalties.

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

SECTION 1. Title 110A, Revised Statutes, is amended by adding Article 6252-13c.1 to read as follows:

*Art 6252-13c.1. SEXUAL OFFENDER REGISTRATION PROGRAM.*

*Sec. 1. DEFINITIONS. In this article:*

- (1) "Department" means the Department of Public Safety.*
- (2) "Local law enforcement authority" means the chief of police of a municipality or the sheriff of a county in this state.*
- (3) "Penal institution" means the institutional division of the Texas Department of Criminal Justice or a county jail.*
- (4) "Released" means discharged, paroled, or placed on mandatory supervision.*
- (5) "Reportable conviction or adjudication" means:*
  - (A) a conviction for violation of Section 21.11 (Indecency with a child), 22.011 (Sexual assault), 22.021 (Aggravated sexual assault), or 25.02 (Incest), Penal Code;*
  - (B) the fourth conviction for a violation of Section 21.08 (Indecent exposure), Penal Code, or*
  - (C) an adjudication of delinquent conduct based on a violation of one of the offenses listed in Paragraph (A) of this subdivision or for which four violations of the offenses listed in Paragraph (B) of this subdivision are shown.*

*Sec. 2. REGISTRATION. (a) A person who has a reportable conviction or adjudication shall register with the local law enforcement authority in any municipality where the person resides or intends to reside for more than seven days or, if the person does not reside or intend to reside in a municipality, in any county where the person resides or intends to reside for more than seven days. The person shall register not later than the seventh day after the person's arrival in the municipality or county.*

*(b) The department shall provide each local law enforcement authority with a form for registering persons required by this article to register. The registration form shall require:*

- (1) the person's full name, each alias, date of birth, sex, race, height, weight, eye color, hair color, social security number, driver's license number, and home address,;*
- (2) the type of offense the person was convicted of, the date of conviction, and the punishment received; and*
- (3) any other information required by the department.*

*(c) Not later than the third day after a person's registering, the local law enforcement authority with whom the person registered shall send a copy of the registration form to the department.*

*Sec. 3. PRERELEASE NOTIFICATION. (a) At least 30 days, but not earlier than 90 days, before a person who will be subject to registration under this article is due to be released from a penal institution, an official of the penal institution shall:*

*(1) inform the person of the person's duty to register under this article and require the person to sign a written statement that the person was so informed or, if the person refuses to sign the statement, certify that the person was so informed;*

*(2) obtain the address where the person expects to reside on the person's release; and*

*(3) inform the department and the applicable local law enforcement authority in the municipality or unincorporated area of the county in which the person expects to reside of the person's name, release date, new address, and the offense of which the person was convicted.*

*(b) If a person who is subject to registration under this article receives probation or only a fine, the court pronouncing sentence shall conduct the prerelease notification specified in Subsection (a) of this section on the day of sentencing.*

*Sec. 4. CHANGE OF ADDRESS. If a person required to register changes address, the person shall provide written notice not later than the seventh day after the change to the local law enforcement authority with whom the person last registered. Not later than the third day after receipt of this notice, the local law enforcement authority shall forward this information to the department. If the person moves to a new municipality or county in this state, the department shall inform the applicable local law enforcement authority in the new area of the person's residence.*

*Sec. 5. CONFIDENTIAL INFORMATION. (a) A person who releases the information required for registration under this article to a person other than a full-time, fully paid, employed law enforcement officer commits an offense.*

*(b) An offense under this section is a Class B misdemeanor.*

*Sec. 6. DESTRUCTION OF JUVENILE DELINQUENCY RECORDS. The department shall destroy the registration information of a person who has a reportable adjudication when the person reaches the age of 21.*

*Sec. 7. FAILURE TO REGISTER. (a) A person commits an offense if the person is required to register and fails to comply with this article.*

*(b) An offense under this section is a Class A misdemeanor.*

*(c) If it is shown at the trial of a person for an offense under this section that the person has previously been convicted of an offense under this section, the person shall be punished for a felony of the third degree.*

*Sec. 8. EXEMPTIONS. (a) This article applies only to a reportable conviction or adjudication occurring on or after September 1, 1991.*

*(b) A person who has a reportable conviction or adjudication may petition a district judge in the county where the person resides or intends to reside for an exemption from this article. If the person shows good cause, the district judge shall grant the exemption.*

*Sec 9 EXPIRATION OF DUTY TO REGISTER. (a) The duty to register for a person with a reportable adjudication ends on the person's 21st birthday.*

*(b) The duty to register for a person with a reportable conviction ends on the day that the person discharges parole or probation.*

SECTION 2. Subsection (a), Section 11, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) The court having jurisdiction of the case shall determine the terms and conditions of probation and may, at any time, during the period of probation alter or modify the conditions; provided, however, that the clerk of the court shall furnish a copy of such terms and conditions to the probationer, and shall note the date of delivery of such copy on the docket. Terms and conditions of probation may include, but shall not be limited to, the conditions that the probationer shall:

- (1) Commit no offense against the laws of this State or of any other State or of the United States;
- (2) Avoid injurious or vicious habits;
- (3) Avoid persons or places of disreputable or harmful character;
- (4) Report to the probation officer as directed by the judge or probation officer and obey all rules and regulations of the probation department;
- (5) Permit the probation officer to visit him at his home or elsewhere;
- (6) Work faithfully at suitable employment as far as possible;
- (7) Remain within a specified place;
- (8) Pay his fine, if one be assessed, and all court costs whether a fine be assessed or not, in one or several sums, and make restitution or reparation in any sum that the court shall determine;
- (9) Support his dependents;
- (10) Participate, for a time specified by the court in any community-based program, including a community-service work program designated by the court;
- (11) Reimburse the county in which the prosecution was instituted for compensation paid to appointed counsel for defending him in the case, if counsel was appointed, or if he was represented by a county-paid public defender, in an amount that would have been paid to an appointed attorney had the county not had a public defender;
- (12) Remain under custodial supervision in a community-based facility, obey all rules and regulations of such facility, and pay a percentage of his income to the facility for room and board;
- (13) Pay a percentage of his income to his dependents for their support while under custodial suspension in a community-based facility;
- (14) Pay a percentage of his income to the victim of the offense, if any, to compensate the victim for any property damage or medical expenses sustained by the victim as a direct result of the commission of the offense;
- (15) Submit to testing for controlled substances; ~~and~~
- (16) Attend counseling sessions for substance abusers or participate in substance abuse treatment services in a program or facility approved or licensed by the Texas Commission on Alcohol and Drug Abuse, if the person was sentenced for an offense involving controlled substances or the court determines that the defendant's use of controlled substances was connected to the commission of the offense;
- (17) Register under Article 6252-13c.1, Revised Statutes; and
- (18) With the consent of the victim of a misdemeanor offense or of any offense under Title 7, Penal Code, participate in victim-defendant mediation for the purpose of making restitution to the victim.

SECTION 3. Subsection (g), Section 8, Article 42.18, Code of Criminal Procedure, is amended to read as follows:

(g) The Texas Board of Criminal Justice may adopt such other reasonable rules not inconsistent with law as it may deem proper or necessary with respect to the eligibility of prisoners for parole and mandatory supervision, the conduct of parole and mandatory supervision hearings, or conditions to be imposed upon parolees and persons released to mandatory supervision. Each person to be released on parole shall be furnished a contract setting forth in clear and intelligible language the conditions and rules of parole. The

parole panel may include as a condition of parole or mandatory supervision any condition that a court may impose on a probationer under Article 42.12 of this code, including the condition that the person released submit to testing for controlled substances or submit to electronic monitoring if the parole panel determines that absent testing for controlled substances or participation in an electronic monitoring program the person would not be released on parole. Acceptance, signing, and execution of the contract by the inmate to be paroled shall be a precondition to release on parole. A person released on mandatory supervision shall be furnished a written statement setting forth in clear and intelligible language the conditions and rules of mandatory supervision. The parole panel may also require as a condition of parole or release to mandatory supervision that the person make payments in satisfaction of damages the person is liable for under Article 6184p, Revised Statutes. *The parole panel shall require as a condition of parole or mandatory supervision that the person register under Article 6252-13c.1, Revised Statutes.*

SECTION 4. This Act takes effect September 1, 1991.

SECTION 5. 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 the Senate on April 16, 1991, by a viva-voce vote; the Senate concurred in House amendments on May 26, 1991, by a viva-voce vote; passed the House, with amendments, on May 25, 1991, by a non-record vote.

Approved June 15, 1991.

Effective September 1, 1991.

# APPENDIX B

## LETTER FROM REPRESENTATIVE ESCOBAR

### TEXAS HOUSE OF REPRESENTATIVES

STATE CAPITOL, ROOM E2.706  
P.O. Box 2910  
AUSTIN, TEXAS 78768-2910

(512) 463-0666  
Fax (512) 463-1765



JUAN MANUEL ESCOBAR

December 10, 2004

The Honorable Terry Keel, Chair  
Select Interim Committee on Sex Offender Statutes  
Texas House of Representatives  
State Capitol Bldg.  
Austin, Texas 78768

Dear Chairman Keel:

I want to express my appreciation for the hard work and careful consideration you and my colleagues on the committee have given to the need to refine and improve Texas' sex offender registration laws.

While I fully support the Committee's findings and have signed the report, I do have some concern about two areas:

1. The "Static 99" standards used to determine the risk of repeated offenses. As you know, testimony received by the committee suggested that the current standards for employment and relationship histories may have an unwarranted impact on teenage offenders whose very age limits their opportunity to demonstrate either characteristic; and
2. The impact of the registration requirements on teenage offenders where there appears to have been an element of consent involved in the offense.

I hope it will be possible to give more attention to both of these matters during the Regular Session when the Legislature considers the adoption of the committee recommendations.

Yours for an even better Texas,

A handwritten signature in cursive script that reads "Juan M. Escobar".

Juan Manuel Escobar



DISTRICT 43

# APPENDIX C

## LETTER FROM REPRESENTATIVE HODGE



The State of Texas  
The House of Representatives  
District 100  
State Representative  
**Terri Hodge**

## MEMORANDUM

DATE: December 22, 2004  
TO: Chairman, Terry Keel  
FROM: Representative Terri Hodge  
RE: Sex Offender Interim Report

I wish to express my concerns regarding the sex offender interim report including recommendation and legislation in accordance with Article 62.007.

### **Risk Assessment Review Committee:**

#### **Sex Offender Screening**

- The current sex offender screening test (Static 99) is used to determine the level of community supervision and treatment. This test alone is inadequate to effectively determine one's risk level to re-offend.
- The test is administered orally to offenders' who has been accused, charged or convicted of a sexual assault offense.
- Upon completion of the test, a risk level is assigned based on the responses to the questions. This limited information provides inaccurate and incomplete results.
- It adds unnecessarily many convicted, non-convicted, low, moderate and non risk offenders to a specialized sex offender caseload. Due to limited resources and excessive case loads, Parole Officers can no longer effectively supervise, track and monitor high risk and civil committed sex offenders.

*Capitol Office:*  
P.O. Box 2910  
Austin, Texas 78768-2910

*District Office:*  
4032 Swiss Avenue  
Dallas, Texas 75204

- For public safety reasons, improved testing procedures must be implemented to properly identify, classify, supervise, monitor and track high risk offenders effectively. However, adding the polygraph and penile pletysomograph components will not necessarily achieve accurate results.
- I recommend this issue is studied by a joint committee with input from the Parole Division and Board of Pardons and Paroles.

## **Registration Exemption - Chapter 62**

I agree. As currently written, Texas Sex Offender Laws and Registration requirements does drastically strain the resources of state and local administrators and law enforcement. Resulting in making it more difficult and often impossible to devote adequate time, attention and resources to monitor registrants who present the greatest danger to the public.

I ask the committee to consider reinstating the 10-year registration exemption for first time nonviolent offenders who were previously given deferred adjudication and probated to community supervision with a 10-year registration period to commence at the dismissal and discharge of the probation.

Further, to provide the courts the ability to review first time offenders with non-aggravated offenses with lifetime registration requirements after 10-years with the possibility of eliminating or reducing the registration requirement. This would encourage offenders to comply with registration requirements and enable local police and parole departments to focus on offenders most dangerous to the public.

I believe these changes could be made while still complying fully with the Jacob Wetterling Act including the Pam Lycher Amendment. As I understand the Act, there was no requirement to make lifetime registration retroactive to 1970, to be in compliance with the Act to be eligible for funding from the Byrne Grant.

---

## STATIC 99 Coding Instructions and Worksheet

1. **Number of Prior Sex Offenses (prior to Index offense)**
  - Index offense is the most recent offense with a sexual element
  - Consider convictions and charges for sex offenses (any offense with a sexual element) prior to the index offense
  - Deferred adjudication would count as an offense conviction

Convictions	Charges
_____	_____
_____	_____
_____	_____
_____	_____

2. **Any Stranger Victim**
  - Victim has known offender less than 24 hours prior to offense
  - Information can come from any source available
3. **Any Unrelated Victim**
  - A relationship sufficiently close that marriage would normally be prohibited – score as "0"
  - See scoring guide for examples
  - Information can come from any source available
4. **Victim's Gender**
  - Information can come from any source available
5. **Any Non-Contact Sex Conviction**
  - Convictions only
  - Indecent Exposure, Illegal Pornography, etc.
6. **Ever Married More Than Two Years**
  - "Married" – two adults living together as lovers and sharing bills for at least two continuous years
  - Male/Male or Female/ Female relationships would count if living as lovers
7. **Age**
  - Age at commencement of the period at risk (e.g., released from prison, released on community supervision)
8. **Index: Non-Sexual Assault Conviction**
  - Any assaultive conviction **SENTENCED AT THE SAME TIME** as the index sexual offense
  - Regardless of the date the offenses were committed
  - Include Homicide, Wounding, Assault, Robbery, Arson, Abduction, etc.
9. **Prior: Non-Sexual Assault Conviction**
  - Not including index offense
  - Conviction only
10. **More than Four Sentencing Occasions**
  - Number of occasions sentenced
  - For any criminal offense (not including traffic tickets)
  - Include juvenile
  - Include Index Offense and all prior sentencing occasions

# STATIC 99

Offender \_\_\_\_\_ Assessor \_\_\_\_\_ Agency/Div/Dept \_\_\_\_\_  
 Date of Birth \_\_\_\_\_ SID # \_\_\_\_\_ TDCJ # \_\_\_\_\_ Date \_\_\_\_\_

RISK FACTORS	POINTS	SCORE	NOTES
--------------	--------	-------	-------

Index Offense \_\_\_\_\_

**1. Number of Prior Sex Offenses (prior to Index offense)**

<u>CONVICTIONS</u>	<u>CHARGES</u>	
0	0	0
1	1-2	1
2-3	3-5	2
4+	6+	3

**2. Any Stranger Victim**

Yes	1
No	0

**3. Any Unrelated Victim**

Yes	1
No	0

**4. Victim's Gender**

**a. Male offender**

male victim	1
female victim	0

**b. Female offender**

female victim with no male co-defendant	1
male victim	0

**5. Non-Contact Sex Convictions**

Yes	1
No	0

**6. Ever Married More Than Two Years**

Yes	0
No	1

**7. Age**

18-24 years old	1
25 and over	0

**8. Index Non-Sexual Assault Conviction**

Yes	1
No	0

**9. Prior Non-Sexual Assault Conviction**

Yes	1
No	0

**10. More than Four Sentencing Occasions**

Yes	1
No	0

Level 1 (Low 0-1)	Level 2 (Mod. 2-3)	Level 3 (High 4+)
----------------------	-----------------------	----------------------

Total Score \_\_\_\_\_

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Dec. 11, 2004, 10:40PM

## Parolees, lawyers blast sex-offender program

Treatment orders some with no sex-crime record to admit guilt or face prison time

By THOM MARSHALL  
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Texas parolees who have never been convicted of sex crimes are being forced to undergo testing and treatment as sex offenders and could wind up back in prison if they fail to comply with rigid sex-offender parole restrictions that include holiday lockdowns.

In many cases, the testing is done by the same therapist who does the treatment and who profits to the tune of \$20 to \$35 per week, paid by each parolee in group sex-offender sessions.

No one seems to know exactly how many parolees without sex convictions on their records have been classified as sex offenders and are undergoing treatment.

Bryan Collier, director of the parole division of the Texas Department of Criminal Justice, said 3,910 people classified as sex offenders are under parole supervision in Texas.

Of that number, he estimated that "probably less than 100"

### RESOURCES

#### A TEXAS JUSTICE CATCH-22

• **Treatment issue:** Defense lawyers say a parolee with no sex-crime convictions on his record may still be ordered by parole officials to undergo sex-offender treatment.

• **Stipulation of admission:** To successfully complete

do not have sex-offense convictions.

But defense lawyers said they could point to numerous cases in which parolees were classified as sex offenders with nothing in their records to back it up.

Collier also said some parolees may have had an offense that involves sex without the wording of the charge reflecting that, and some may have been arrested for sex crimes but never convicted, triggering an evaluation.

The therapist who charged convicted burglar Raymond Young \$150 for a state-ordered evaluation to determine whether he should undergo sex-offender treatment is the same therapist now charging him \$20 for each weekly group session.

Young, with no sex crimes on his record, said he is not doing well in the sessions. That's partly because he has failed to meet one requirement for successful completion of treatment as defined by the Council on Sex Offender Treatment: "admitting and accepting responsibility for all crimes."

"I've been doing this since January, and I've been threatened with having a monitor put on me because I wouldn't admit I had a problem," Young said last week. "How can I be in denial about a crime that never took place? Or how can I show remorse for a victim that never existed?"

Young expressed bitterness about being required to stay in his residence throughout the Thanksgiving weekend as part of a sex-offender lockdown.

He said he did not complain about meeting regular parole requirements but does complain about the enhanced sex-offender parole restrictions.

"Guilt by accusation is what we've got in the parole system right now," said lawyer David O'Neill, who represents many parolees.

He described the lives of parolees treated as sex offenders as "pure hell."

"They can't keep their jobs. They can't leave their counties. They get put on

treatment, a parolee must admit and accept responsibility for all crimes.

• **C**  
**onsequences of refusal:**  
Refusal to admit to a sex crime — even if a parolee has none on his record — can start a bureaucratic process that could send him back to prison.

curtews. They get put on monitors. They can't make a living. The deck is stacked against them," O'Neill said. "They just put on provision after provision after provision."

He said there are dangerous people who need such supervision, "but more and more, the system is chewing up and spitting out the people who this was not designed for."

Parole chief Collier said that in Raymond Young's evaluation responses, "although I can't tell you what those are, he has indicated some responsibility" relating to some sex-crime charges several years ago that later were dropped.

Young's records reviewed by parole officials do not explain why the case was dismissed, Collier said.

"I'm not saying he did or didn't do the offense."

But based on that dismissed case, the parole board ordered evaluation and treatment, he said.

Allison Taylor, executive director of Texas' Council on Sex Offender Treatment, said council officials do not consider it a conflict of interest to have parolees treated by the same registered sex-offender treatment provider who evaluated them.

"Typically, common practice is that a sex offender is referred to a program where they conduct an assessment, and if it's determined that (parolees) meet the qualifications and the necessity for treatment, they will treat them," Taylor said.

She said no one checks the results of an evaluation when a provider determines that a parolee needs treatment.

Collier said treatment providers set their own rates, which range from \$20 to \$35 for a weekly group session.

The required evaluations can cost \$150, payable to the therapist by the parolee.

Collier added that the therapist who evaluated and is treating Young,

Theophilus Natter, told parole officials Thursday that "he is not in a position to give information regarding the number of clients he is serving."

"He says he believes that is confidential information."

Natter refused to comment.

Defense lawyer Sean Buckley said he has represented at least 10 parolees — three of whom had no sex convictions — "who have been subject to sex-offender conditions or who have been forced to attend sex-offender therapy

Young said he has no complaints about the way he was treated on regular parole for the first year after his release.

But that changed, he said, after he underwent the sex-offender evaluation that he had been told would be a condition of parole.

"A lot of guys get out of prison and they don't try to do nothing for themselves," Young said. "I went to work on the back of a garbage truck at BFI until I earned enough money to rent me a semi, take my test, passed it, and now I'm driving trucks."

He said that, under regular parole rules, he had freedom to drive throughout the state and could earn \$800 to \$1,100 a week. Under sex-offender parole rules, however, he said he is not allowed to leave Harris County and makes \$300 to \$375 a week.

Buckley said that requiring people who have no sex-crime convictions to admit and accept responsibility for such crimes is "absolutely perverted because they're forcing a person to lie."

He said his clients who aren't "real sex offenders," but are required to attend group sessions, have told him that "when they go in there and they hear these other people, like child molesters, talking about it and having to relive these fantasies, they get sick to their stomachs and they're just appalled that they have to be a part of this."

Texas does not license sex-offender treatment providers, but Taylor said the 380 providers on the council's registry had to meet specific qualifications.

She said those include being licensed or certified to practice as a physician, psychologist, psychiatrist, professional counselor, marriage or family therapist, master social worker, or advanced clinical practitioner.

They also must have at least 1,000 hours of clinical experience in assessment and treatment of sex offenders, she said, and at least 40 hours of continuing education — 30 in sex-offender specific training and 10 in sexual-assault or sexual-survivor issues.

She said she has only a three-person staff, including herself, and does not know how many parolees are being treated by the registered providers.

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