

SUBJECT: Revisions to sex offender registration, DNA registry laws

COMMITTEE: Public Safety — committee substitute recommended

VOTE: 7 ayes — B. Turner, Berman, Driver, Gutierrez, Hupp, Isett, Villarreal
0 nays
2 absent — Keel, P. King

WITNESSES: For — Dean J. Johnson, City of Beaumont
Against — None
On — Ron Urbanovsky, Paul C. Jordan, Texas Department of Public Safety

DIGEST: CSHB 2113 would revise the state’s sex offender registration laws dealing with lifetime registration, offenses committed in other jurisdictions, paying for newspaper notification of sex offenders whereabouts, registration requirements for persons receiving pardons, and multiple convictions and would make changes in who was required to submit samples for the state’s DNA database.

CSHB 2113 would take effect September 1, 2001.

Extending lifetime registration. CSSB 2113 would extend lifetime registration to:

- ! persons convicted of indecency with a child involving exposure if before or after a person’s conviction the person had received another reportable conviction or adjudication as an adult for an offense that required registration; and
- ! persons convicted for unlawful restraint, kidnapping, or aggravated kidnapping or attempt to commit one of these crimes if the judge in the case had made an affirmative finding that the victim was younger than 17 at the time of the offense and before or after the person was convicted of

unlawful restraint, kidnapping, or aggravated kidnapping the person had been convicted of another offense triggering registration.

This would apply to persons who committed indecency with a child involving contact before, on, or after the bill's effective date and who committed unlawful restraint, kidnapping, or aggravated kidnapping on or after September 1, 1999.

Submitting samples to the state's DNA database. Judges granting community supervision (probation) to adult defendants who were required to register under the state's sex offender registration laws would have to require as a condition of the probation that the defendant submit a blood or other sample to the DPS for inclusion in the state's DNA database. Parole panels would have to require that parolees convicted of offenses that triggered sex offender registration submit a blood or other sample to the DPS for the DNA database.

Judges would have to require as a condition of probation or parole for juveniles who committed offenses subject to the registration law that the juveniles submit a blood or other sample to DPS for the state's DNA database and that they register as sex offenders. The bill would eliminate the current listing of sex offenses that could result in authorization for judges to impose certain conditions of probation or parole and would give this authorization in all cases involving offenses that triggered the sex offender registration requirements.

Adult prison inmates and juveniles committed to the Texas Youth Commission (TYC) who were required under current law to submit samples for the state's DNA database and who had already provided samples for the database under another state law would no longer be required to provide a sample at the request of the Texas Department of Criminal Justice or TYC

Provisions of CSHB 2113 that would require juveniles and adults on probation and parole to submit a DNA sample would apply to offenses occurring before, on, or after the bill's effective date. If these persons had already been released on probation or parole, the conditions of their release would have to be modified.

Offenses committed under another state, federal or military law. DPS would have to determine whether an offense committed under another state's laws, federal law, or the Uniform Code of Military Justice contained elements that were substantially similar to the elements of an offense under Texas laws that would trigger a current law requirement that the person register as a sex offender. Appeals of DPS' decision would be brought in Travis County district court. CSHB 2113 would include persons with convictions of federal law and the Uniform Code of Military Justice in the requirements in current law for persons with out-of-state convictions. These provisions would apply to persons required to register as sex offenders before, on, or after the bill's effective date.

Paying for newspaper notification. Local law enforcement agencies would be required to collect the cost of a sex offender's public notification in the local newspaper for offenders who were not on community supervision, parole, or mandatory supervision. This requirement would apply only to offenses committed on or after the bill's effective date.

End of registration if conviction set aside, receive pardon. CSHB 2113 would terminate the duty to register for persons whose conviction or adjudication triggered a duty to register was set aside on appeal or if a person received a pardon on the basis of innocence. This would apply to offenses committed before, on, or after the bill's effective date.

Multiple convictions. Current law requiring persons with multiple convictions or orders of deferred adjudication to periodically verify their whereabouts would apply regardless of whether the judgments or orders were entered on different dates or the offenses arose out of different criminal transactions.

SUPPORTERS
SAY:

CSHB 2113 would clarify the Texas sex offender law to make the law more effective.

Extending lifetime registration. CSHB 2113 would meet requirements of federal law to extend lifetime registration to certain repeat offenders and would ensure that Texas continued to receive about \$3 million in federal grant money. CSHB 2113 would not expand the list of who must register but would require lifetime registration for persons who committed another

offense after being registered for their previous offense. By committing another offense, these offenders would have proven that they were dangerous and should be subject to lifetime registration.

Submitting samples to the state's DNA database. CSHB 2113 would ensure that all adult and juvenile offenders subject to the state's registration requirements also submitted DNA samples for the state's DNA registry. The bill would include those on probation and those being released on parole so that the registry would be accurate and complete for law enforcement agencies investigating crimes. Although judges and parole panels currently have this authority and some exercise it, CSHB 2113 would ensure that it was used in every case.

CSHB 2113 also would ensure that adults and juveniles who were subject to the sex offender registration law were required to register as a condition of probation or parole. CSHB 2113 would not change an offender's obligation to register, it just would ensure that they were told about it when placed on probation or parole.

Offenses committed under another state, federal or military law. CSHB 2113 would clarify current language requiring registration for persons who committed sex offenses in other states or who violated federal or military law. It would make clear who decides whether an offense from another jurisdiction would trigger Texas registration requirements and would allow appeals of these decisions. These changes are necessary to address concerns about the Texas law that were raised in a lawsuit against the Beaumont Police Department.

Paying for newspaper notification. CSHB 2113 would ensure that sex offenders who went off of supervision by leaving probation or parole but who still were required to register with law enforcement agencies and whose whereabouts were required to be published in newspapers when they moved, paid the cost of publishing their names in the newspapers. Currently those who are under some type of supervision are required to pay this cost, and it is only fair that offenders, not the newspapers or law enforcement agencies, continue to pay when they leave supervision.

End of registration if conviction set aside, receive appeal. It only would be fair that persons who received pardons or whose convictions were set aside on appeal should no longer be subject to the registration law.

OPPONENTS
SAY:

Extending lifetime registration. It would be unwise to expand the state's lifetime registration requirements. Rehabilitation can be difficult for persons subject to lifetime registration, and it could place long-term burdens on offenders' families who sometimes come under scrutiny when an offender registers.

Submitting samples to the state's DNA database. All juveniles on probation or parole should not be included in the state's DNA database. Current sex offender registration laws often are too onerous on juveniles, and CSHB 2113 could exacerbate that problem. Juveniles — especially those given probation — should be able to make a fresh start as an adult without being included forever in the database. Judges currently have authority to order these juveniles to submit a DNA sample for the database, and these decisions should continue to be made on a case-by-case basis instead of mandating that all juveniles submit samples.

Offenses committed under another state, federal or military law. DPS may not be the proper entity to decide whether an offense from another jurisdiction would trigger Texas registration requirements. It is unclear whether an offender would go directly to DPS for a decision or whether this would be the responsibility of a local law enforcement agency. CSHB 2113 should require that the decision maker be trained and competent to make the decision.

NOTES:

The original bill contained only the provisions relating to offenses under the laws of other states, federal law, and military law and determining when persons receive multiple convictions and adjudications.

The companion bill, SB 1648 by Bernsen, passed the Senate on the Local and Uncontested Calendar on April 11 and was referred to the House Public Safety Committee.