

- SUBJECT:** Prohibiting sex offenders on parole, probation from living near children
- COMMITTEE:** Corrections — committee substitute recommended
- VOTE:** 8 ayes — Haggerty, Farrar, Allen, Hodge, Ellis, Hopson, Isett, Ritter  
0 nays  
1 absent — Gray
- WITNESSES:** For — Mark Grayson; Bill Carpenter, Houston ISD; *Registered but did not testify:* George Hobson, Cypress-Fairbanks ISD; Rick Berry, Texas School Alliance  
Against — None  
On — Victor Rodriguez, TDCJ Parole Division
- BACKGROUND:** The Code of Criminal Procedure requires judges who assign community supervision (probation) and parole panels that grant parole to persons convicted of certain sex offenses against children to require as a condition of probation or parole that offenders stay out of “child safety zones.” Offenders must be prohibited from supervising or participating in athletic, civic, or cultural programs with child participants and from going in, on, or within a specified distance of places where children commonly gather, such as schools, day-cares, playgrounds, youth centers, swimming pools, and video arcade facilities.
- DIGEST:** Under CSHB 331, parole panels would have to require that releasees subject to child safety zones not reside in a residence located within 500 feet of a premise where children commonly gathered, including schools, day-cares, playgrounds, youth centers, swimming pools, and video arcade facilities.  
  
A requirement by a judge that a probationer not reside within 500 feet of a premise where children gather would not apply if the place became a premise where children commonly gathered after the offender began residing there or the residence was owned by the offender and also was owned by the offender

at the time of the sex offense.

Judges who granted community supervision to sex offenders subject to child safety zones would have to prohibit the offender from living in a residence located within 300 feet of a premises where children commonly gather.

A requirement by a parole panel that a person not reside within 300 feet of a premise where children gathered would not apply if the place became a premise where children commonly gathered after the offender began residing there or the residence was owned by the offenders and also was owned by the offender at the time of the sex offense.

HB 331 would take effect September 1, 2001. Courts and parole panels could modify conditions of probation, parole, or mandatory supervision to require that offenders resided at least 300 feet from premises where children gather.

SUPPORTERS  
SAY:

CSHB 331 would help ensure that sex offenders who had preyed on children were not, after being paroled or put on probation, allowed to live close to places where children congregate. Although current law allows parole panels and judges to set the distance that offenders must stay away from children and the Texas Department of Criminal Justice's parole division policy sets a minimum distance, sometimes offenders are required to live in facilities close to children, and sometimes the policy is waived. A problem arose in Travis County in which sex offenders were housed across the street from a school. This is inappropriate because these offenders should not have easy access to children. Sex offenders on probation and parole should have to live a set, minimum distance from children.

CSHB 331 would not infringe on judges' or parole panels' discretion in decisions about establishing child safety zones. CSHB 331 could give judges and panels guidance as to where offenders could live, but judges and panels also would be free to send offenders to live in any facility that did not fall within the boundaries of the bill and to craft other specific conditions applicable to each case. The statutes list many conditions for judges or parole panels to impose, and these never have been regarded as exclusive or exhaustive lists.

Any inconvenience to offenders or difficulties in finding places for offenders to live would be outweighed by the advantage of saving children from potential harm.

CSHB 331 would be fair to offenders whose homes fell within the distances of the bill and those who lived within the distances before a facility for children was established by excluding them from the requirements of the bill.

OPPONENTS  
SAY:

CSHB 331 is unnecessary because judges and parole panels already have broad authority to place conditions on probationers and parolees and already can require that they do not live close to children.

It could be inappropriate for the Legislature to continue to enumerate specific probation and parole conditions. There is a danger that some people could view lists of possible probation and parole conditions as exclusive lists, resulting in challenges whenever courts or parole panels deviated from the list. Also, courts and parole panels could become reluctant to craft conditions that were not on the list but could be more appropriate for a specific case.

CSHB 331 would create a false sense of safety. Offenders could live 510 feet or 1,000 feet from a playground and not violate the provisions of the bill but still could harm children.

Prohibiting offenders from certain areas could make it hard for them to reintegrate into work and family. Halfway houses are in short supply, and CSHB 331 could make it difficult to place offenders on probation and parole. Offenders already living closer to the premises described by the bill could have to be moved into facilities that are not as secure or appropriate.

OTHER  
OPPONENTS  
SAY:

CSHB 331 does not go far enough. Offenders should be kept even farther from places where children congregate.

NOTES:

The original bill would have required parole panels and judges to prohibit offenders from going in, on, or within 1,000 feet of premises where children commonly gather.

Rep. Clark plans to offer an amendment to make uniform all the distances that probationers and parolees must live from places where children congregate.

The companion bill, SB 107 by Barrientos, passed the Senate by voice vote on May 8.