

SUBJECT: Revisions to risk assessment levels assigned to sex offenders

COMMITTEE: Corrections — favorable, without amendment

VOTE: 7 ayes — Haggerty, Farrar, Allen, Hodge, Ellis, Hopson, Isett

0 nays

2 absent — Gray, Ritter

SENATE VOTE: On final passage, April 2 — voice vote

WITNESSES: For — None

Against — None

On — Melinda Bozarth, Texas Department of Criminal Justice

BACKGROUND: Texas' sex offender registration laws require that before persons subject to registration are released from prison or placed on probation, they must be assigned a risk level. The risk level is used in the public notification of the whereabouts of some sex offenders.

A risk assessment team must determine the level of risk for persons leaving prison, and courts make the determination of a risk level for persons receiving deferred adjudication, being placed on probation, or given a fine only.

A risk assessment tool is used to assign to the person a numeric risk of one, two, or three. Level one is for persons posing a serious danger to the community, level two is the mid-level, and level three is used when there is no basis for concern that the person poses a serious danger to the community or will continue to engage in criminal sexual conduct. Persons leaving prison and being placed on probation must be assigned an initial risk level of one or two, but later under some circumstances can petition for an assignment of level three.

The risk assessment team is established by the Texas Department of Criminal Justice (TDCJ) and includes state employees representing TDCJ, the Department of Public Safety, sex offender treatment providers, victims, the Texas Youth Commission, (TYC) and the Texas Juvenile Probation Commission. The committee is required to develop or select the tool to make the risk assessment that must conform to the general guidelines in Code of Criminal Procedure, art. 62.035.

DIGEST: SB 1206 would alter the general guidelines that a screening tool would have to take into account for levels one, two, and three. The bill would reverse the order of seriousness of the numbers so that one would indicate low danger and three would indicate serious danger.

Level one would have to mean a designated range of points indicating that the person poses a low danger to the community and likely would not engage in criminal sexual conduct. Level two would have to apply to persons who involved a moderate danger to the community and could continue to engage in criminal sexual conduct. Level three would indicate that the person posed a serious danger to the community and would continue to engage in criminal sexual conduct.

SB 1206 would require TDCJ or TYC, instead of a risk assessment review committee, to determine the risk level for sex offenders being released from penal institutions. The agencies would have to assign risk levels of one, two, or three, and courts would do the same for persons receiving deferred adjudication, being placed on probation, or given a fine only. Juvenile records would have to be released to a court or an agency to determine a risk level.

The currently established risk assessment team would function in an oversight capacity to:

- ! ensure that staff were trained on the use of the screening tool;
- ! monitor the use of the tool;
- ! analyze other tools as they become available; and
- ! revise or replace the existing screening tool, if warranted.

The risk assessment team, TDCJ, TYC, or a court could override a risk

level only if the entity believed the level was not an accurate prediction of the risk the offender posed to the community and documented the reasons for the override. Government Code requirements for open government would not apply to the meetings of the risk assessment committee.

SB 1206 would give immunity for liability for good faith conduct under the sex offender registration laws to employees and officers of TDCJ, TYC, the Texas Juvenile Probation Commission, the Department of Public Safety, local community supervision and corrections (probation) departments, juvenile probation departments, and members of the judiciary.

SB 1206 would take effect September 1, 2001.

**SUPPORTERS
SAY:**

SB 1206 would revise the laws dealing with risk assessments for sex offenders but would keep the basic structure of the system the same – sex offenders in the community would be assigned risk levels that would help others assess the danger they presented.

SB 1206 would switch the state's risk assessment categories to be consistent with tools used in the rest of the United States. It would use three categories with high risk being level three rather than level one. This would help eliminate confusion when offenders move from state to state.

TDCJ and TYC would be responsible for assigning the risk levels. The risk assessment committee, made up of state employees who all have other jobs in addition to being on the committee, has not been able to keep up with the high number of sex offenders being released from prison and put on probation, which at times has been hundreds per month. State agency personnel have been assigning the risk levels, and SB 1206 simply would continue this practice. The state agency personnel all are trained in how to assign the risk levels. It would be best for trained, objective personnel — rather than a committee — to assign the risk levels because subjectivity in the process could result in the inconsistent assignment of levels and unreliability in the use of the assessment tool

The risk assessment committee would continue to operate in an oversight capacity, including analyzing various assessment tools so Texas' tool could be revised or replaced if necessary and monitoring the use of the tool by

TDCJ and TYC. The views of victims, law enforcement agencies, and others would continue to be heard through the committee's oversight responsibilities.

The bill would allow a risk assessment score to be overridden if the risk assessment committee, TDCJ, or TYC believed it was not an accurate predictor of an offender's risk. This would add needed flexibility into the system so that decisions could be altered on a case-by-case basis if warranted.

SB 1206 would ensure that the open meetings act would not apply to the risk assessment committee, because these requirements could stifle discussions of the committee. So far, no requests have been made for the meetings to be open. SB 1206 also would add the immunity provision so that state and county employees would not be liable for acting in good faith.

OPPONENTS
SAY:

The risk assessment committee, not state agency personnel, should be responsible for assigning risk levels. In addition to correctional agency personnel, the committee has representatives of victims and law enforcement authorities. These voices should continue to be a part of the risk level assignments.