

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 2145  
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Criminal Justice  
5/14/1999  
Committee Report (Substituted)

### **DIGEST**

Currently, information about the 15,000 registered sex offenders in Texas is available through the police and sheriff's department as well as on the Internet. This database is made possible through the mandatory sex offender registration law. The information available electronically includes the name, age, zip code, and shoe size of the sex offender and is updated at least twice a week. What is not currently available is the sex offender's photo, specific street address, telephone number, social security number, and driver's license number. C.S.H.B. 2145 would set forth requirements for persons subject to sex offender registration requirements and to the conditions for supervised release of those persons.

### **PURPOSE**

As proposed, C.S.H.B. 2145 sets forth requirements for person subject to sex offender registration requirements and the conditions for supervised release of those persons.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Article 42.01, Code of Criminal Procedure, by adding Section 7, as follows:

Sec. 7. Provides that in addition to the information described by Section 1, the judgment should reflect affirmative findings entered pursuant to Article 42.015.

SECTION 2. Amends Chapter 42, Code of Criminal Procedure, by adding Articles 42.015 and 42.016, as follows:

Art.42.015. FINDING OF AGE OF VICTIM. Requires a judge to make an finding of fact and enter the affirmation finding in the judgement in the case if the judge determines that the victim or intended victim was younger than 17 years of age at the time of the offense.

Art.42.016. SPECIAL DRIVER'S LICENSE OR IDENTIFICATION REQUIREMENTS FOR CERTAIN SEX OFFENDERS. Sets forth special drivers's license or identification requirements for certain sex offenders.

SECTION 3. Amends Section 5, Article 42.12, Code of Criminal Procedure, by adding Subsection (e), to require the judge to make an affirmative finding on fact and file a statement of that affirmative finding with the papers in the case if the judge determines that the victim or intended victim was younger than 17 years of age at the time of the offense.

SECTION 4. Amends Section 5, Article 42.12, Code of Criminal Procedure, to authorize a judge to dismiss the proceedings and discharge a defendant other than a defendant charged with an offense requiring the defendant to register as a sex offender under Chapter 62, rather than described by Section 13B(b). Prohibits the judge from dismissing the proceeding and discharging the defendant charged with an offense requiring the defendant to register under Chapter 62. Deletes text authorizing a judge to dismiss the proceedings and discharge a defendant charged with a felony described by Section 13B(b) only if in the judge's opinion the best interest of society and the defendant will be served and the defendant has successfully completed at least two-thirds of the period of community supervision.

(b) Amends Section 20(b), Article 42.12, Code of Criminal Procedure, to establish that this section does not apply to a defendant convicted of an offense for which on conviction registration as a sex offender is required under Chapter 62.

SECTION 5. Amends Article 62.01(3), Code of Criminal Procedure, to redefine “penal institution.”

SECTION 6. Amends Article 62.01, Code of Criminal Procedure, by amending Subdivision (5) and (6) and adding Subdivision (7) to redefine “reportable conviction or adjudication” and define “residence.”

SECTION 7. Amends Chapter 62, Code of Criminal Procedure, by adding Article 62.011, as follows:

Art. 62.011. WORKERS OR STUDENTS. Sets forth requirements regarding workers or students.

SECTION 8. Amends Article 62.02, Code of Criminal Procedures, by amending Subsection (a) and adding Subsection (g), to require a person who is required to register as a condition of parole, release to mandatory supervision, or community supervision to register with a local law enforcement agency. Requires a certain person to register with the law enforcement authority that is identified by the department as the authority designated by that state to receive registration information.

SECTION 9. Amends Chapter 62, Code of Criminal Procedures, by adding Article 62.021, as follows:

Art. 62.021. OUT-OF-STATE REGISTRANTS. Sets forth requirements for out-of-state registrants.

SECTION 10. Amends Articles 62.03, Code of Criminal Procedure, by amending Subsections (a), (b), (c), (d) (e), and (f), and adding Subsection (h) to require the risk assessment review committee (committee) established under Article 62.035, before a person subject to registration is due to be released, to determine the person’s level of risk to a community using the sex offender screening tool developed or selected, assign the person to a numeric risk level, and immediately send a written notice to the institution from which the person is being released. Sets forth requirements for the institution upon receiving notice regarding a person’s sex offender status. Makes conforming and nonsubstantive changes.

SECTION 11. Amends Chapter 62, Code of Criminal Procedure, by adding Article 62.035, as follows:

Art. 62.035. RISK ASSESSMENT REVIEW COMMITTEE; SEX OFFENDER SCREENING TOOL. Requires the Texas Department of Criminal Justice (TDCJ) to establish a risk assessment review committee to be composed of at least five members each of whom are employed by the state. Sets forth certain individuals authorized to compose the committee. Requires the committee to develop a screening tool, or select from existing tools, to be used in determining the risk level of a person subject to registration under this chapter. Requires the screening tool to use an objective point system under which to assign points to various factors regarding the offender, the victim, and other relevant information. Sets forth general guidelines the committee shall use or adopt in developing the sex offender screening tool consisting of three levels.

SECTION 12. Amends Articles 62.04, by amending Subdivision (a), (d), (f) and (g), Code of Criminal Procedure, to make conforming and nonsubstantive changes.

SECTION 13. Amends Chapter 62, Code of Criminal Procedure, by adding Article 62.045, as follows:

Art. 62.045. ADDITIONAL PUBLIC NOTICE FOR CERTAIN OFFENDERS. Provides that on the receipt of notice 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, TDCJ shall verify the person’s assigned risk level. Requires TDCJ, by a certain date, to provide a notice of release to notify by mail or delivery everyone within a certain radius of the place where the person intends to reside. Requires TDCJ to include in the notice only public information. Requires TDCJ to develop procedures for the person about whom the notice is written to pay all costs incurred due to distribution of the notice, with exceptions. Requires the person about whom the notice is written to pay the costs in accordance with TDJC’s procedures.

SECTION 14. Amends Article 62.05, Code of Criminal Procedure, to require a person to report to the local law enforcement authorities certain changes, if a person required to register is not supervised by an officer listed in Subsection (a).

SECTION 15. Amends Articles 62.06(a) and (b), Code, of Criminal Procedure, to require 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, rather than for a sexually violent offenses, to report to certain authorities. Requires a person subject to registration under this chapter who is not subject to the 90-day reporting requirement described by this section to report to the local law enforcement authority with whom the person is required to register 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, rather than on which the person first registered under this chapter, to verify the information in the registration form maintained by the authority for that person. Provides that 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 83th day following that date but before the 98th day after that date. Authorizes the authority to direct the person to report under this subsection once in each 90-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).

SECTION 16. Amends Chapter 62, Code of Criminal Procedures, by adding Articles 62.061, 62.062, 62.063, and 62.065, as follows:

Art. 62.061. REGISTRATION OF CERTAIN WORKERS OR STUDENTS. Sets forth requirements for the registration of certain workers or students.

Art. 62.062. REGISTRATION OF PERSONS REGULARLY VISITING LOCATION. Sets forth requirements for a person regularly visiting a certain location.

Art. 62.063. VERIFICATION OF INDIVIDUALS SUBJECT TO COMMITMENT. Set forth certain requirements for the verification of individual subject to commitment.

Art. 62.065. REQUIREMENTS RELATING TO DRIVER'S LICENSE OR PERSONAL IDENTIFICATION CERTIFICATE. Sets forth requirements relating to a driver's license or personal identification certificate.

SECTION 17. Amends Article 62.08(b), Code of Criminal Procedures, to delete text regarding a person photograph and numeric street address.

SECTION 18. Amends Chapter 62, Code or Criminal Procedure, by adding Article 62.085, as follows:

Art. 62.085. INFORMATION PROVIDED TO PEACE OFFICER. Set forth requirements for information provided to a peace officer.

SECTION 19. Amends Article 62.10, Code of Criminal Procedures, by amending Subsections (b) and (c), to set forth certain offenses under this article.

SECTION 20. Amends Article 62, Code of Criminal Procedure, by adding Article 62.101, as follows:

Art. 62.101. FAILURE TO COMPLY: INDIVIDUALS SUBJECT TO COMMITMENT. Provides that a person commits an offense if the person fails to comply. Provides that an offense under this section is second degree felony.

SECTION 21. Amends Section 54.04, Family Code, by adding Subsection (q), to require the judge to enter the finding in the order, if the judge orders a disposition under this section and there is an affirmative finding that the victim or intended victim was younger than 17 years of age at the time of the conduct.

SECTION 22. Amends Section 58.007(a), Family Code, to provide that this section does not apply to a record or file relating to a child that is subject to disclosure under Chapter 62, Code of Criminal Procedure, added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997.

SECTION 23. Amends Section 411.135(a), Government Code, to provide that any person is entitled to obtain from the Texas Department of Public Safety (department) certain information.

SECTION 24. Amends Section 15.031, Penal Code, to create offenses for a person who induces a minor to engage in certain conduct. Makes conforming changes.

SECTION 25. Amends Section 21.11(b), Penal Code, to provide that it is an affirmation defense to prosecution under this section that the actor had certain characteristics.

SECTION 26. Amends Section 22.011(e), Penal Code, to provide that certain actions are an affirmative defense to prosecution under Subsection (a)(2).

SECTION 27. Amends Chapter 521C, Transportation Code, by adding Section 521.057, as follows:

Sec. 521.057. INFORMATION REGARDING CERTAIN SEX OFFENDERS. Sets forth information regarding certain sex offenders.

SECTION 28. Amends Section 521.101, Transportation Code, by adding Subsections (h) and (i), to require the department to automatically revoke each personal identification certificate issued by the department to a person who takes certain action.

SECTION 29. Amends Chapter 521E, Transportation Code, by adding Section 521.103, as follows:

Sec. 521.103. EXPIRATION AND RENEWAL REQUIREMENTS FOR CERTAIN SEX OFFENDERS. Sets forth expiration and renewal requirements for certain sex offenders.

SECTION 30. Amends Chapter 521M, Transportation Code, by adding Section 521.272, as follows:

Sec. 521.272. RENEWAL OF LICENSE ISSUED TO CERTAIN SEX OFFENDERS. Sets forth the renewal of a license issued to certain sex offenders.

SECTION 31. Amends Section 521.274(b), Transportation Code, to prohibit a rule adopted under this subsection from permitting a renewal by mail of certain items.

SECTION 32. Amends Chapter 521O, Transportation Code, by adding Section 521.348, as follows:

Sec. 521.348. AUTOMATIC REVOCATION FOR CERTAIN SEX OFFENDERS. Sets forth certain requirements regarding the automatic revocation of a drivers licenses for certain sex offenders.

SECTION 33. Repealer: Article 62.12(c), Code of Criminal Procedure.

SECTION 34. Amends Section 11(a), Chapter 668, Acts of the 75th Legislature, 1997, to provide that the change in law made by this Act to Article 62.11, Code of Criminal Procedure, applies only to a certain defendant on or after September 1, 1997 who is under the supervision and control of the commission.

SECTION 35. Provides that the change in law made by this Act under Chapter 62, Code of Criminal Procedure, applies to certain persons regardless of when the offense was committed or the conduct occurred. Provides that an individual for whom a deferred adjudication is entered or a trial disposition hearing has commenced before the effective date of this Act is covered by the law in effect when the deferred adjudication was entered or when the trial or disposition hearing commenced, and former law is continued in effect for that purpose.

SECTION 36. Provides that the change in law made by this Act to Article 62.01(5) and 62.03(d), Code of Criminal Procedure, applies to juvenile offenders adjudicated as having engaged in delinquent conduct before, on or after the effective date of this Act, regardless of when the conduct occurred.

SECTION 37. Provides that the change in law made by this Act to Articles 62.06(a) and (b), Code of Criminal Procedure, relating to persons required to report to local law enforcement not less than once in each 90-day period, applies only to a defendant who takes certain action on or after the effective date of this Act.

SECTION 38. Requires certain law enforcement authorities to inform the person that the next occasion and each succeeding occasion on which the person verifies registration, the person must comply with Articles 62.06(a) and (b), Code of Criminal Procedure, to accomplish the change in law made by this Act to Articles 62.06 (a) and (b), Code of Criminal Procedure. Provides that the change in law to which this section applies does not affect the validity of any action taken by a person to verify registration before the person is provided an opportunity to be informed of the change in law made by this Act as required by this section.

SECTION 39. Provides that the change in law made by this Act to Section 58.007, Family Code, applies only to records and files created or maintained under Chapter 62, Code of Criminal Procedure, on or after September 1, 1995.

SECTION 40. Provides that the change in law made by this Act in Articles 42.016, 62.065, and 62.085, Code of Criminal Procedure, and Sections 521.057, 521.101 (h), and (i), 521.103, 521.272, and 521.348, Government Code, amending Section 521.274(b), Transportation Code, and that part of SECTION 2 amending Section 62.03(a), Code of Criminal Procedure, take effect September 1, 2000. Provides that Chapter 62, Code of Criminal Procedure, applies only to certain persons who, with respect to an offense listed in Article 62.01(5), Code of Criminal Procedure, on or after September 1, 2000, is confined or under supervision. Provides that a person who, on September 1, 2000, is not described by Subsection (b)(1) or (2) of this section is covered by the law in effect before September 1, 2000, and former law is continued in effect for that purpose.

SECTION 41. Provides that the change in law made by this Act in adding Articles 62.0451, 62.063, and 62.101, Code of Criminal Procedure, takes effect on January 1, 2000, but only if an Act of the 76th Legislature, Regular Session, 1999, establishes a certain process.

SECTION 42. Requires the Texas Department of Public Safety to establish the risk assessment review committee not later than September 1, 1999. Requires the review committee to develop the sex offender screening tool not later than December 1, 1999, and to have the tool available for use in cases not later than December 15, 1999. Requires each person released from a penal institution to be assigned a numeric risk level.

SECTION 43. Requires TDCJ to establish the procedures required by Article 62.045, Code of Criminal Procedure, not later than January 1, 2000.

SECTION 44. Requires the department to implement the system described by Section 411.135, Government Code, as amended by this Act, not later than January 1, 2000.

SECTION 45. Provides that except as provided by Section 36 of this Act, this Act takes effect September 1, 1999.

SECTION 46. Emergency clause.