

BILL ANALYSIS

Senate Research Center

H.B. 1302
By: Clardy et al. (Nichols)
Criminal Justice
5/13/2013
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties cite incidents involving registered sex offenders committing additional sex crimes and other violent offenses, including murder, after release from prison, and the parties assert that these repeat offenders should be subject to more severe punishment than the punishment currently prescribed by Texas statutes. Current law requires a defendant convicted of continuous sexual abuse of a young child or children, aggravated sexual assault, or continuous trafficking of persons to be punished by imprisonment in the Texas Department of Criminal Justice for life without parole if the defendant has previously been convicted of such an offense. H.B. 1302 seeks to expand this requirement to include additional sexually violent offenses committed against a child and to address reported incidents of sex offenders luring child victims into vehicles by prohibiting certain sex offenders from some types of employment.

H.B. 1302 amends current law relating to the imposition of a sentence of life without parole on certain repeat sex offenders and to certain restrictions on employment for certain sex offenders.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Requires that this Act be known as Justin's Law.

SECTION 2. Amends Article 42.015, Code of Criminal Procedure, as follows:

Art. 42.015. FINDING OF AGE OF VICTIM. (a) Creates this subsection from existing text and makes no further change.

(b) Requires the judge, in the trial of a sexually violent offense, as defined by Article 62.001 (Definitions), to make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that the victim or intended victim was younger than 14 years of age at the time of the offense.

SECTION 3. Amends Section 5(e), Article 42.12, Code of Criminal Procedure, as follows:

(e)(1) Creates this subdivision from existing text and makes no further change.

(2) Requires the judge, if a judge places on community supervision under this section a defendant charged with a sexually violent offense, as defined by Article 62.001, to make an affirmative finding of 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 14 years of age at the time of the offense.

SECTION 4. Amends Article 62.053(a), Code of Criminal Procedure, as follows:

(a) Requires the Texas Department of Criminal Justice (TDCJ) or the Texas Juvenile Justice Department, rather than the Texas Youth Commission, before a person who will be subject to registration under this chapter is due to be released from a penal institution, to determine the person's level of risk to the community using the sex offender screening tool developed or selected under Article 62.007 (Risk Assessment Review Committee; Sex Offender Screening Tool) and assign to the person a numeric risk level of one, two, or three. Requires an official of the penal institution, before releasing the person, to:

(1) inform the person that:

(A)-(F) Makes no change to these paragraphs; and

(G) certain types of employment are prohibited under Article 62.063 for a person with a reportable conviction or adjudication for a sexually violent offense involving a victim younger than 14 years of age occurring on or after September 1, 2013; and

(2)-(4) Makes no change to these subdivisions.

SECTION 5. Amends Article 62.058, Code of Criminal Procedure, by adding Subsection (f), as follows:

(f) Requires a local law enforcement authority that provides to a person subject to the prohibitions described by Article 62.063 a registration form for verification as required by this chapter to include with the form a statement summarizing the types of employment that are prohibited for that person.

SECTION 6. Amends Subchapter B, Chapter 62, Code of Criminal Procedure, by adding Article 62.063, as follows:

Art. 62.063. PROHIBITED EMPLOYMENT. (a) Defines "amusement ride" and "bus" for this section.

(b) Prohibits a person subject to registration under this chapter because of a reportable conviction or adjudication for which an affirmative finding is entered under Article 42.015(b) or Section 5(e)(2), Article 42.12 (Community Supervision), as appropriate, from, for compensation:

(1) operating or offering to operate a bus;

(2) providing or offering to provide a passenger taxicab or limousine transportation service;

(3) providing or offering to provide any type of service in the residence of another person unless the provision of service will be supervised; or

(4) operating or offering to operate any amusement ride.

SECTION 7. Reenacts Sections 12.42(b) and (d), Penal Code, as amended by Chapters 834 (H.B. 3384) and 1119 (H.B. 3), Acts of the 82nd Legislature, Regular Session, 2011, and makes no further change to these subsections.

SECTION 8. Reenacts Section 12.42(c)(4), Penal Code, as amended by Chapters 122 (H.B. 3000) and 1119 (H.B. 3), Acts of the 82nd Legislature, Regular Session, 2011, and amends it as follows:

(4) Requires a defendant, notwithstanding Subdivision (1) (relating to requiring on conviction the defendant to be punished by imprisonment in TDCJ for life if it is shown on the trial of a felony of the first degree that the defendant has previously been finally convicted of a felony other than a state jail felony) or (2) and except as provided by

Subdivision (3) (relating to requiring a defendant to be punished for a capital felony if it is shown on the trial of an offense that the defendant has previously been finally convicted of a certain offense) for the trial of an offense under Section 22.021 (Aggravated Sexual Assault) as described by that subdivision, to be punished by imprisonment in TDCJ for life without parole if it is shown on the trial of an offense under Section 20A.03 (Continuous Trafficking of Persons) or of a sexually violent offense, rather than under Section 20A.03 or 21.02 (Continuous Sexual Abuse of Young Child or Children) or 22.021, that the defendant has previously been finally convicted of:

(A) an offense under Section 20A.03 or of a sexually violent offense, rather than under Section 20A.03 or 21.02 or 22.021, or

(B) an offense that was committed under the laws of another state and that contains elements that are substantially similar to the elements of an offense under Section 20A.03 or of a sexually violent offense, rather than under Section 20A.03 or 21.02 or 22.021.

SECTION 9. Amends Section 12.42, Penal Code, by adding Subsection (h), to define "sexually violent offense" for this section.

SECTION 10. (a)(1) Provides that the change in law made by this Act in adding Article 62.063, Code of Criminal Procedure, applies only to a person who is required to register under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure, on the basis of a conviction or adjudication for an offense described by that article and for which an affirmative finding under Article 42.015(b) or Section 5(e)(2), Article 42.12, Code of Criminal Procedure, as added by this Act, is made on or after the effective date of this Act.

(2) Provides that Article 42.015(b), Code of Criminal Procedure, and Section 5(e)(2), Code of Criminal Procedure, as added by this Act, apply, as appropriate, only to a trial commenced on or after the effective date of this Act or an order of deferred adjudication entered on or after the effective date of this Act.

(3) Provides that a person who is required to register under Chapter 62, Code of Criminal Procedure, solely on the basis of a conviction or adjudication that occurs before the effective date of this Act is governed by the law in effect when the conviction or adjudication occurred, and the former law is continued in effect for that purpose.

(b) Provides that the change in law made by this Act in amending Section 12.42 (Penalties for Repeat and Habitual Felony Offenders on Trial for First, Second, or Third Degree Felony), Penal Code, applies only to an offense committed on or after the effective date of this Act. Provides that 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 the former law is continued in effect for that purpose. Provides that, for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 11. Provides that, to the extent of any conflict, this Act prevails over another Act of the 83rd Legislature, Regular Session, 2013, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 12. Effective date: September 1, 2013.