

SUBJECT: Changes in newspaper notices of certain sex offenders' whereabouts

COMMITTEE: Public Safety — committee substitute recommended

VOTE: 7 ayes — Oakley, Driver, Keel, Keffer, Madden, McClendon, E. Reyna
0 nays
2 absent — Carter, Olivo

WITNESSES: For — Bonita Blayney, Save Our Children from Abuse and Neglect; John F. Arnaud, Jr.
Against — None
On — Paul Jordan, Department of Public Safety

BACKGROUND
:
In 1995 the 74th Legislature revised the state's sex offender registration law to include public notification of the whereabouts of some sex offenders and to make some sex offender information open to the public. Adults and juveniles are subject to the registration law if they are convicted of, or receive deferred adjudication for: indecency with a child; sexual assault; aggravated sexual assault; prohibited sexual conduct (incest); sexual performance by a child; possession or promotion of child pornography; aggravated kidnapping if committed with the intent to violate or abuse the victim sexually; first-degree burglary, if committed with the intent to commit certain sex offenses; criminal attempt, conspiracy or solicitation of certain sex offenses; convictions under other state's laws for similar offenses; and convictions (but not deferred adjudications) for second offenses for indecent exposure.

Prison or other criminal justice officials are responsible for supplying initial registration to local law enforcement authorities. If a sex offender's victim was younger than age 17, local law enforcement agencies must immediately publish in a local newspaper a notice of the offender's whereabouts. The notice, in both English and Spanish, must be republished a week later. The notice must identify the offender by age and gender, briefly describe the offense and list the city, street, and postal zip code where the person intends

to live. Publishing a notice is *not* required, even if the offense was against a young victim, in three instances: (1) the offender was a juvenile; (2) the offense was prohibited sexual conduct (incest); or (3) the offender was given deferred adjudication. Notices also must be published if an offender changes addresses.

The Department of Public Safety (DPS) is required to keep a database of sex offender registration information. Certain information in the database, including offenders' names, is considered public information and must be released by local law enforcement to the public upon request. Local law enforcement may not release an offender's Social Security, driver's license or phone numbers, photograph, numeric street address, and any information that would identify the victim.

As of April 1997, about 3,700 persons have been subject to the public notification requirements, and another approximately 12,700 offenders had registered with DPS.

For more information on the state's sex offender registration and notification laws, see *Debate Continues on Texas' Sex Offender Notification Law*, House Research Organization, Focus Number 74-23, July 24, 1996.

DIGEST:

CSHB 3113 would change the requirements of what must be included in the newspaper notices of the whereabouts of certain sex offenders on probation, parole, or released from prison to require that the notices include the offenders' full name, numeric street address or physical address, and a recent photograph. The bill also would make DPS database information of a persons' photograph and numeric street address public information.

CSHB 3113 would take effect September 1, 1997.

SUPPORTERS
SAY:

CSHB 3113 would provide the public with more information about child sex offenders so that it can better protect itself from these offenders who have been released into the community on probation or parole or after serving a prison sentence. Sex offenders are often repeat offenders, and it is especially important that communities be aware of child sex offenders since they prey on vulnerable children. The need for community safety overrides any privacy interests of these offenders. Courts have ruled that states have a

legitimate interest in public safety that permits adequate community notification of sex offenders' whereabouts.

Currently, the information about sex offenders that is published in newspapers is not specific enough. It does not list the offender's name or numeric street address or give their photograph. Such vague data does little to help the public and can lead to needless fears and groundless suspicions. Merely listing a street on which a sex offender lives does not help identify the offender and can hurt innocent people who fit the general description of the offender and live on the street. Including a photograph would make it easier for communities to identify an offender and make the announcements easier to locate in the newspapers.

Although citizens can obtain an offender's name from police and sheriffs, they should be able to obtain this and additional information directly from the newspaper notices. Publishing additional information about offenders' might deter them from committing another sex offense and would alert potential victims to be wary.

Current safeguards to protect the sex offenders would remain. Persons subject to registration can petition a district court for an injunction to stop publication of a newspaper notice if they prove that the publication would place their health and well-being in immediate danger. In addition, sex offenders living in the community are protected from harassment just like other persons under Penal Code provisions. Public notification about sex offenders since 1995 has not led to increased vigilantism or harassment of offenders.

Several other states have included offenders' names and photographs in their community notification about sex offenders without serious incident.

The law would continue to require parolees and probationers to pay for the newspaper notices of their whereabouts. Current law gives law enforcement authorities, probation and parole officers and offenders the necessary flexibility to work out the best, most expedient arrangements.

OPPONENTS
SAY:

Current law requires the newspaper notices about sex offenders to contain enough information for the public to protect itself and to raise awareness

about sex offenders' whereabouts. CSHB 3113 would go too far by publishing the name, address and photograph of these offenders and would infringe on these individuals' privacy rights.

The original notification requirements kept offenders' names, photographs and addresses out of the newspaper notice to protect offenders from vigilantism and harassment. Disclosing this information could lead to harassment against persons trying to get on with their lives or, even more importantly, to the easy identification of victims. In addition, it could cause unwarranted panic over the presence of sex offenders in a neighborhood and make it impossible for these persons ever to reintegrate into society. This could lead to repeated cases of persons released from prison being driven from community to community without being able to find a place to live. Releasing more detailed information would be especially unfair to those sex offenders who are rehabilitated and will not commit another offense.

Citizens who want additional information about sex offenders need only make a request to law enforcement authorities.

OTHER
OPPONENTS
SAY:

By requiring that a photograph be included in the newspaper notices, CSHB 3113 would be costly to local law enforcement agencies who must publish the notices. While the law specifies that offenders on parole or probation must pay for notices relating to their whereabouts, it says nothing about who pays for notices regarding sex offenders who have completed their prison sentences. In most cases local police departments pay for the publication but are unable to recoup the money from offenders. These offenders often have few resources and many financial obligations such as fines, restitution payments and child support. Estimates of the cost of publishing the notices range from \$50 to \$200 per offender, and CSHB 3113 would only raise that cost. Since the state mandates publication, the state should assure that the cost is covered.

NOTES:

The committee substitute added provisions making offenders' photograph and numeric street address public information.

