

SUBJECT: Sex offender registration and notification revisions

COMMITTEE: Public Safety — committee substitute recommended

VOTE: 9 ayes — B. Turner, Keel, Berman, Carter, Driver, Gutierrez, Hupp, P. King, Najera
0 nays

WITNESSES: For — None
Against — None
On — Dennis Loockerman and Paul Jordan, Texas Department of Public Safety

BACKGROUND: Texas' sex offender registration and notification law requires some sex offenders to register with local law enforcement authorities and requires public notification about the whereabouts of some sex offenders.

Offenders must register with local law enforcement authorities and criminal justice officials must notify local law enforcement authorities when sex offenders plan to move to their jurisdiction. If local law enforcement authorities verify that a sex offender's victim was younger than 17 and the offender was not a juvenile or the conviction was not a deferred adjudication for incest, they immediately must 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 zip code where the person intends to reside.

If the victim was younger than 17, regardless of the basis for registration, law enforcement authorities immediately must provide notice of the offender by mail to the superintendent of the public school district and to any private school administrators in the school district where the offender intends to live.

DIGEST:

Public notification. CSHB 2145 would add to the items that must be included in newspaper publications about sex offenders the offender's full name, the numeric street address or physical address if a numeric address is not available, and either a recent photograph of the person or the address of an Internet website on which the person's photograph is accessible free of charge.

An offender's photograph and numeric street address would be considered part of the public information in the Department of Public Safety's statewide sex offender database.

CSHB 2145 would require school superintendents who received notice of any offender from law enforcement authorities to release the information to appropriate school district personnel, including peace officers and security personnel, principals, nurses, and counselors.

Offenses subject to registration. CSHB 2145 would include two new types of convictions on the list of reportable offenses that make persons subject to the registration requirements:

- ! adjudications for delinquent conduct (guilty verdicts for juveniles) under the laws of another state or a federal law based on violations that are substantially similar to certain Texas offenses that trigger registration requirements; and
- ! second adjudications of delinquent conduct under the laws of another state or a federal law based on offenses that are substantially similar to the Texas offense of indecent exposure.

This would apply to juveniles adjudicated on or after September 1, 1999.

If a youth who fell under the registration requirements because of these new offenses were committed to the Texas Youth Commission (TYC), a facility operated under contract with TYC, or a local probation department, the agency or facility would have to adhere to the prerelease notification and registration requirements. This would apply to juveniles adjudicated on or after September 1, 1999.

Other provisions. CSHB 2145 also would:

- ! repeal a provision that allows persons to petition a court for an exemption from lifetime registration requirements and that allows courts to grant the exemption if treatment professionals present evidence that the person has received treatment and is unlikely to commit another offense and that there is reason to believe that the person no longer poses a significant threat to the community;
- ! change the annual anniversary for offenders who are required to report to local law enforcement authorities from the date they first register to their birthdays;
- ! specify that current provisions requiring some offenders to check in with local law enforcement authorities once every 90 days would apply to persons with two or more convictions for a sexually violent offense, with two or more deferred adjudications, and with a conviction and a deferred adjudication;
- ! exempt information on juveniles that is subject to disclosure under the sex offender registration law from general restrictions on the release of juvenile records, for records and files created or maintained on or after September 1, 1995; and
- ! include youths in TYC under changes made in 1997 that define to whom the registration and notification requirements apply.

CSHB 2145 would take effect September 1, 1999.

**SUPPORTERS
SAY:**

Public notification. The information about sex offenders now published in newspapers is not specific enough. For example, 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 who live on the street. CSHB 2145 would solve this problem by requiring names, numeric addresses, and photographs to be published. Citizens should not have to go through the burdensome steps of requesting this crucial information as a public record from law enforcement agencies.

School superintendents are unsure of their responsibilities once they receive sex offender registration information from law enforcement authorities. CSHB 2145 would clear up some of the confusion by requiring them to pass on information to appropriate district personnel. This would ensure that those

responsible for children's well-being and safety, including security officers, principal, nurses, and counselors, are fully informed.

Offenses subject to registration. CSHB 2145 would ensure that juveniles who commit offenses in other states or who break federal law would be subject to the registration requirements, just as adults are.

Other provisions. CSHB 2145 would eliminate the ability of offenders to ask a court to allow them to opt out lifetime registration requirements, because it is important that the registration system be complete. Statistics show that sex offenders are often repeat offenders, and they should not be allowed to opt out of the system. In addition, federal law requires Texas to make this change or lose federal crime grant funding.

By specifically exempting juvenile sex-offender registration information from restrictions on juvenile records, CSHB 2145 would bring the law in line with an attorney general's opinion. Attorney General Dan Morales determined in Open Records Decision 645 that information about juveniles who are registered sex offenders must be released because the registration law was enacted later than provisions that require confidentiality of some juvenile records, and it prevails over confidentiality requirements.

OPPONENTS
SAY:

Public notification. Disclosing sex offenders' names, addresses, and pictures could lead to vigilantism or the easy identification of victims. Current law requires public notices to contain enough information for the public to protect itself and to raise awareness about a sex offender's whereabouts, but it also respects the privacy and due process rights of the individuals identified. Citizens who want additional information need only ask law enforcement authorities for it. Attorney General Morales ruled in Open Records Decision 645 that much of the information in an offender's registration file is public record.

Offenders living in the free world and meeting registration requirements have paid their debt to society and should not be subject to additional punishment by having their names and pictures published in a newspaper. Releasing more information would be unfair to offenders who are rehabilitated and will not commit another offense.

Current law rightfully gives school superintendents discretion to act on information they receive on sex offenders. These decisions are best made on a local level because superintendents are in the best position to weigh the danger to children.

Other provisions. It would be unfair to offenders to repeal current law that allows them to petition courts for an exemption to lifetime registration requirements. This gives judges discretion to look at cases individually and to exempt offenders who prove that they have straightened out their lives.

OTHER
OPPONENTS
SAY:

Victims should have the right to petition a court to prevent public notification about sex offenders. For a variety of reasons, some victims may not want information about a crime to be publicized, and they should have an avenue to keep this information private.

NOTES:

The committee substitute made numerous changes to the original bill, including:

- ! adding the requirement that school superintendents release registration information to school district personnel;
- ! adding the option of having a photograph of an offender on an Internet web site;
- ! removing provisions that would have required judges placing sex offenders who are subject to the registration law on probation and on parole to require the offenders to submit blood samples or other specimens for the statewide DNA database and to pay a fee to cover the cost of obtaining and analyzing the sample; and
- ! removing a revision of who has to contribute to the DNA database.