

## **BILL ANALYSIS**

C.S.S.B. 871  
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Law Enforcement  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

C.S.S.B. 871 addresses a variety of issues related to sex offender registration by amending Chapter 62 of the Code of Criminal Procedure. First, in order to ensure that notifications are made under proper circumstances and not published where the crime is incest, the bill clarifies which offenses require newspaper publication and notification to schools. Second, in order to ensure that Texas laws comply with federal guidelines for the state to receive continued federal funding under the Jacob Wetterling Crimes Against Children and Sexual Violent Offender Registration Act, C.S.S.B. 871 requires students and employees of an institution of higher education who are required to register as sex offenders to register with the authority for campus security and includes provisions to ensure monitoring of a sex offender employed by or attending an institution of higher education and regarding reports of status changes.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Amends Article 62.01, Code of Criminal Procedure, by adding Subdivisions (8) and (9) to define "public or private institution of higher education" and "authority for campus security."

SECTION 2. Adds Article 62.0102 to the Code of Criminal Procedure, to require DPS to determine, for each person subject to registration under Chapter 62, Code of Criminal Procedure, which local law enforcement authority serves as the person's primary registration authority based on the municipality or county in which the person resides or, as provided by Article 62.061, the municipality or county in which the person works or attends school. Further requires DPS to notify each person subject to registration under this chapter of the person's primary registration authority in a timely manner.

SECTION 3. Amends Article 62.011, Code of Criminal Procedure, to provide that a person is employed or carries on a vocation for purposes of this chapter if the person volunteers on a full-time or part-time basis for a consecutive period exceeding 14 days or for an aggregate period exceeding 30 days in a calendar year. Provides that a person works for purposes of this subsection regardless of whether the person works for compensation or for governmental or educational benefit. Clarifies that enrollment on a full-time or part-time basis qualifies a person as a student for purposes of this chapter.

SECTION 4. Amends Section 62.02, Code of Criminal Procedure, to require DPS to provide an authority for campus security with a form for registering persons under this chapter, and to require the form to indicate whether the person is or will be employed, carrying on a vocation, or a student at a particular public or private institution of higher education in this state or another state, and the name and address of that institution. Further amends Section 62.02, Code of Criminal Procedure, to require a person subject to registration who is an employee or student at an institution of higher education in another state, if an authority for campus security exists at the institution, to register with that authority not later than the 10th day after the date on which the person begins to work or attend school.

SECTION 5. Amends Article 62.03, Code of Criminal Procedure, as follows:

(a) Clarifies that an official of a penal institution must inform a person prior to their release that they must report within 7 days to the law enforcement agency designated as the primary registration authority by the department, rather than reporting to the person they last registered with and that they must notify appropriate entities of any change in status as described by Art. 62.05. Further provides an officer of a penal institution shall require a person to sign a written statement that the person was informed of the person's duties as described by Subsection (h), which details what information must be provided to a person subject to registration before the person is released.

(e) Removes language relating to the requirement of notice publication in a newspaper regarding a conviction or deferred adjudication for an offense under Section 25.02 of the Penal Code, and creates an exception from the notification requirements when limited by Article 62.031, added by this Act. Further amends Article 62.03(e) by removing language limiting the requirement that a local law enforcement agency provide notice to school officials in the school district in which the person subject to registration intends to reside to those cases wherein the victim was a child under 17 years old or the person subject to registration is 17 or older and a student enrolled in secondary school. Adds requirement that the local authority provide notice to schools by adding that the notice must be made in accordance with the new Article 62.032, added by this Act.

(h) Requires a person who intends to be employed or study at an institution of higher learning to register with an authority for campus security, if one exists, not later than the 10th day after the date the person begins to work or attend school. Requires the person to register with the authority for campus security or, if none exists, the local law enforcement authority of the municipality or county in which the institution is located, regardless of the state in which the person intends to reside, not later than the seventh day after the date on which the person begins to work or attend school. Requires the person to notify the appropriate authority for campus security or local law enforcement of the termination of a person's status as a worker or student no later than seven days after termination.

SECTION 6. Amends Chapter 62, Code of Criminal Procedure, by adding Articles 62.031 and 62.032, as follows:

Article 62.031: Limitations on Newspaper Publication. Clarifies that a local law enforcement authority is prohibited from publishing notice in a newspaper under Article 62.03(e) or 62.04(f) if the basis on which the person is subject to registration is an adjudication of delinquent conduct or if the basis is a conviction or deferred adjudication for an offense under Section 25.02, Penal Code, or the laws of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar to the elements of an offense under Section 25.02, Penal Code, if the victim of the offense was younger than 17 years of age. Prohibits newspaper publication if the person subject to registration is assigned a numeric risk level of one.

Article 62.032: Circumstances Requiring Notice to Superintendent or School Administrator. Requires a local law enforcement authority to provide notice, pursuant to Article 62.03(e) or 62.04(f), to the superintendent and each administrator of every school in the school district in which the registrant resides only if the victim was at the time of the offense a child younger than 17 years of age or a student enrolled in a public or private secondary school; the person subject to registration is a student enrolled in a public or private secondary school, or the basis on which the person is subject to registration is a conviction, a deferred adjudication, or an adjudication of delinquent conduct for an offense under Section 43.25 (Sexual Performance by a Child) or 43.26 (Possession or Promotion of Child Pornography), Penal Code, or an offense under the laws of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar to the elements of an offense under either of those sections. Prohibits local law enforcement authorities from providing notice to the superintendent or any administrator if the basis on which the person is subject to registration is an adjudication of delinquent conduct or if the basis is a conviction or deferred adjudication for an offense under Section 25.02 (Prohibited Sexual Conduct, relating to incest), Penal Code, or the laws of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar to the elements of an offense under that section.

SECTION 7. Amends Article 62.04, Code of Criminal Procedure, to require that if a person who reports to a local law enforcement authority under Subsection (a) does not move on or before the anticipated move

date or does not move to the new address provided to the authority, not later than the seventh day after the anticipated move date, the person must report to the local law enforcement authority designated by DPS as the person's primary registration authority, rather than the law enforcement agency with whom the person last registered. Further amends Article 62.04 by removing language limiting the requirement that a local law enforcement agency provide notice to school officials in the school district in which the person subject to registration intends to reside to those cases wherein the victim was a child under 17 years old or the person subject to registration is 17 or older and a student enrolled in secondary school. Adds requirement that the local authority provide notice to schools by adding that the notice must be made in accordance with the new Article 62.032, added by this Act.

SECTION 8. Amends Article 62.05, Code of Criminal Procedure, to require that a registrant's community supervision officer notify the local law enforcement authority if the person begins or ceases to work or study at an institution of higher education within seven days of receiving that information. Requires the registrant to report a change in educational status to local law enforcement not later than the seventh day after the change. Provides that the a change in a person's educational status includes transfer from one educational facility to another. Requires local law enforcement to notify DPS of any change in the job or educational status of a registrant at an institution of higher education.

SECTION 9. Conforming changes.

SECTION 10. Conforming change.

SECTION 11. Amends Chapter 62, Code of Criminal Procedure, by adding Article 62.064 as follows:  
Art. 62.064. REGISTRATION OF WORKERS OR STUDENTS AT INSTITUTIONS OF HIGHER EDUCATION.

(a) Requires a person required to register under Article 62.061 to report to the relevant authority within seven days of the date the person begins to work or attend school at an institution of higher education.

(b) Requires a person described by Subsection (a) to provide the authority for campus security or the local law enforcement authority with all information the person is required to provide under Article 62.02(b), which outlines that information that is required to be included in the registration form.

(c) Requires a person to inform the appropriate authority within seven days of terminating status as a worker or student at the institution.

(d) Requires the authority for campus security or the local law enforcement authority to promptly forward to the administrative office of the institution any information received from the person under this article and any information received from the Department of Public Safety under Article 62.08, which establishes the computerized central database and describes the types information contained therein.

(e) Exempts a person from the registration requirement at a local law enforcement authority required by this section if the person is already required to register with that authority by another provision of Chapter 62, Code of Criminal Procedure.

(f) Exempts an authority for campus security from public notification and notification of private or public primary or secondary schools requirements. Also exempts a local law enforcement authority from the same requirement in the absence of other notification requirements.

(g) Establishes that, notwithstanding Article 62.062, (Registration of Persons Regularly Visiting a Location), the requirements of this article supersede those of Article 62.062 for those persons subject to both Article 62.062 and this article.

(h) Requires a registrant who works or is a student at an institution of higher education in this state on September 1, 2003, regardless of the date on which the person began to work or attend school, to report that fact no later than October 1, 2003, to the appropriate authority. Provides that this subsection expires September 1, 2004.

SECTION 12. Amends Article 62.08, Code of Criminal Procedure, to require DPS, within three days of applicable information becoming available through a person's registration or verification of registration under Article 62.05, to send notice if the person is or will be working or studying at an institution of higher education in this state to the authority for campus security, or, if none exists, the municipality or county in which the institution is located. Requires DPS to provide to an institution of higher education, upon written

request identifying an individual who has applied to work or study at the institution, any information contained in the computerized central database pursuant to Article 62.08.

SECTION 13. Amends Articles 62.09 (a) and (d), Code of Criminal Procedure, to authorize an authority for campus security and an institution of higher education to release information to the public about a person required to register under this chapter, but only if that information is public. Exempts a public or private institution of higher education from liability for damages resulting from conduct authorized by Subsection (d).

SECTION 14. Non-substantive change.

SECTION 15. Amends Article 62.13, Code of Criminal Procedure, to provide that if a court orders that a juvenile's records are non-public, that information will remain available to institutions of higher education. Requires a motion for juvenile sex offender deregistration under Article 62.13(l) to identify those institutions of higher education that possess information about the case. Requires a copy of the court's order, if the court grants a deregistration motion, to be sent to each public or private agency in possession of information pertaining to the registrant, and, at the request of the registrant, requires a copy of the court's order to be sent to any public or private agency who comes into possession of that information following the initial dissemination of the order. Requires the recipient of such a motion to conform its records to the court's orders either by deleting the sex offender registration information or changing its status to nonpublic, as the order requires. Provides that an institution of higher education does not have to delete sex offender registration information pursuant to a court order granting juvenile sex offender deregistration.

SECTION 16. Requires the Department of Public Safety to establish the procedures required by Subsections (h) and (i), Article 62.08, Code of Criminal Procedure, no later than October 1, 2003. Provides that changes in law made by this act are retroactive.

SECTION 17. Effective date.

#### **EFFECTIVE DATE**

This Act takes effect September 1, 2003.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute differs from the original in that the change it makes to Section 62.0102(b), Code of Criminal Procedure, requires DPS to notify persons subject to registration of the person's primary registration authority, not to ensure that the person is notified.

The substitute includes changes and/or additions made to the following articles of Chapter 62, Code of Criminal Procedure, which were not provided by the original bill: 62.01, 62.011(b), 62.02, 62.03, 62.031, 62.032, 62.04(f), 62.05, 62.064, 62.08, 62.09, and 62.13. The substitute also adds the October 1, 2003 deadline by which DPS must adopt rules under Article 62.08, Code of Criminal Procedure, which was added by the substitute and not included in the original bill.