

AN ACT

relating to presentence investigation and postsentence treatment and supervision of certain sex offenders.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 42.12, Code of Criminal Procedure, is amended by adding Section 9A to read as follows:

Sec. 9A. SEX OFFENDERS: PRESENTENCE INVESTIGATION AND POSTSENTENCE TREATMENT AND SUPERVISION. (a) In this section:

(1) "Council" means the Council on Sex Offender Treatment.

(2) "Sex offender" means a person who has been convicted or has entered a plea of guilty or nolo contendere for an offense under any one of the following provisions of the Penal Code:

(A) Section 20.04(a)(4) (Aggravated Kidnapping), if the person committed the offense with the intent to violate or abuse the victim sexually;

(B) Section 21.08 (Indecent Exposure);

(C) Section 21.11 (Indecency with a Child);

(D) Section 22.011 (Sexual Assault);

(E) Section 22.021 (Aggravated Sexual Assault);

(F) Section 25.02 (Prohibited Sexual Conduct);

(G) Section 30.02 (Burglary), if:

(i) the offense is punishable under Subsection (d) of that section; and

1 (ii) the person committed the offense with
2 the intent to commit a felony listed in this subsection;

3 (H) Section 43.25 (Sexual Performance by a
4 Child); or

5 (I) Section 43.26 (Possession or Promotion of
6 Child Pornography).

7 (b) If the defendant is a sex offender, a supervision
8 officer may release information in a presentence or postsentence
9 report concerning the social and criminal history of the defendant
10 to a person who:

11 (1) is licensed or certified in this state to provide
12 mental health or medical services, including a:

13 (A) physician;

14 (B) psychiatrist;

15 (C) psychologist;

16 (D) licensed professional counselor;

17 (E) licensed marriage and family therapist; or

18 (F) certified social worker; and

19 (2) provides mental health or medical services for the
20 rehabilitation of the defendant.

21 (c) If the defendant is a sex offender, the judge shall
22 direct a supervision officer approved by the community supervision
23 and corrections department or the judge or a person, program, or
24 other agency approved by the council to evaluate the
25 appropriateness of, and a course of conduct necessary for,
26 treatment, specialized supervision, or rehabilitation of the
27 defendant and to report the results of the evaluation to the judge.

1 The judge may require the evaluation to use offense-specific
2 standards of practice adopted by the council and may require the
3 report to reflect those standards. The evaluation shall be made
4 after conviction and before the entry of a final judgment or, if
5 requested by the defendant, after arrest and before conviction.

6 SECTION 2. Section 11, Article 42.12, Code of Criminal
7 Procedure, is amended by adding Subsection (i) to read as follows:

8 (i) A judge who grants community supervision to a sex
9 offender evaluated under Section 9A may require the sex offender as
10 a condition of community supervision to submit to treatment,
11 specialized supervision, or rehabilitation according to
12 offense-specific standards of practice adopted by the Council on
13 Sex Offender Treatment. On a finding that the defendant is
14 financially able to make payment, the judge shall require the
15 defendant to pay all or part of the reasonable and necessary costs
16 of the treatment, supervision, or rehabilitation.

17 SECTION 3. Section 13B, Article 42.12, Code of Criminal
18 Procedure, is amended by amending Subsection (a) and adding
19 Subsection (i) to read as follows:

20 (a) If a judge grants community supervision to a defendant
21 described by Subsection (b) and the judge determines that a child as
22 defined by Section 22.011(c), Penal Code, was the victim of the
23 offense, the judge shall establish a child safety zone applicable
24 to the defendant by requiring as a condition of community
25 supervision that the defendant:

- 26 (1) not:
27 (A) supervise or participate in any program that

1 includes as participants or recipients persons who are 17 years of
2 age or younger and that regularly provides athletic, civic, or
3 cultural activities; or

4 (B) go in, on, or within 1,000 feet [~~a distance~~
5 ~~specified by the judge~~] of a premises where children commonly
6 gather, including a school, day-care facility, playground, public
7 or private youth center, public swimming pool, or video arcade
8 facility; and

9 (2) attend psychological counseling sessions for sex
10 offenders with an individual or organization which provides sex
11 offender treatment or counseling as specified by or approved by the
12 judge or the community supervision and corrections department
13 officer supervising the defendant.

14 (i) Notwithstanding Subsection (a)(1)(B), a requirement
15 that a defendant not go in, on, or within 1,000 feet of certain
16 premises does not apply to a defendant while the defendant is in or
17 going immediately to or from a:

18 (1) community supervision and corrections department
19 office;

20 (2) premises at which the defendant is participating
21 in a program or activity required as a condition of community
22 supervision;

23 (3) residential facility in which the defendant is
24 required to reside as a condition of community supervision, if the
25 facility was in operation as a residence for defendants on
26 community supervision on June 1, 2003; or

27 (4) private residence at which the defendant is

1 required to reside as a condition of community supervision.

2 SECTION 4. The heading to Section 14, Article 42.12, Code of
3 Criminal Procedure, as amended by Chapter 165, Acts of the 73rd
4 Legislature, Regular Session, 1993, and Chapter 910, Acts of the
5 76th Legislature, Regular Session, 1999, is amended to read as
6 follows:

7 Sec. 14. CHILD ABUSERS [~~SEX OFFENDERS~~] AND FAMILY
8 VIOLENCE OFFENDERS; SPECIAL CONDITIONS.

9 SECTION 5. Subsections (l) and (m), Section 9, Article
10 42.12, Code of Criminal Procedure, are repealed.

11 SECTION 6. Subsection (b), Section 14, Article 42.12, Code
12 of Criminal Procedure, as amended by Chapter 165, Acts of the 73rd
13 Legislature, Regular Session, 1993, and Chapter 910, Acts of the
14 76th Legislature, Regular Session, 1999, is repealed.

15 SECTION 7. (a) Except as provided by Subsection (b) of
16 this section, the change in law made by this Act in amending Section
17 13B, Article 42.12, Code of Criminal Procedure, applies only to a
18 person placed on community supervision on or after the effective
19 date of this Act.

20 (b) On or after the effective date of this Act, a court may
21 modify a condition of community supervision to require that a
22 person who before that date was placed on community supervision
23 maintain a distance of 1,000 feet from a premises where children
24 commonly gather.

25 SECTION 8. Except as provided by Section 7 of this Act, the
26 change in law made by this Act to Article 42.12, Code of Criminal
27 Procedure, applies only to a defendant charged with or convicted of

1 an offense committed on or after the effective date of this Act.
2 For the purposes of this section, an offense is committed before the
3 effective date of this Act if any element of the offense occurs
4 before that date. A defendant charged with or convicted of an
5 offense committed before the effective date of this Act is covered
6 by the law in effect when the offense was committed, and the former
7 law is continued in effect for this purpose.

8 SECTION 9. This Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1054 passed the Senate on May 1, 2003, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 30, 2003, by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 1054 passed the House, with amendment, on May 28, 2003, by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor