

By: Allen of Dallas

H.B. No. 2036

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of sex offender treatment providers and
3 the treatment of sex offenders; providing a penalty.

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

5 SECTION 1. Chapter 1, Health and Safety Code, is amended by
6 adding Section 1.005 to read as follows:

7 Sec. 1.005. DEFINITION. In this code, "licensed
8 practitioner" includes a sex offender treatment provider who is:

9 (1) registered under Chapter 110, Occupations Code;

10 and

11 (2) certified in the use of penile plethysmography.

12 SECTION 2. Section 109.051(b), Occupations Code, is amended
13 to read as follows:

14 (b) Notwithstanding Subtitle B, Title 3, of this code or
15 Chapter 611, Health and Safety Code, a person described by
16 Subsection (a), on request or in the normal course of business,
17 shall release or transfer information concerning the treatment of a
18 sex offender to:

19 (1) another person described by Subsection (a);

20 (2) a criminal justice agency; or

21 (3) a local law enforcement authority.

22 SECTION 3. Sections 109.052 and 109.053, Occupations Code,
23 are amended to read as follows:

24 Sec. 109.052. RELEASE OR TRANSFER BY CRIMINAL JUSTICE

1 AGENCY. A criminal justice agency, on request or in the normal
2 course of official business, shall release or transfer information
3 concerning the treatment of a sex offender to:

- 4 (1) another criminal justice agency;
- 5 (2) a local law enforcement authority; or
- 6 (3) a person described by Section 109.051(a).

7 Sec. 109.053. RELEASE OR TRANSFER BY LOCAL LAW ENFORCEMENT
8 AUTHORITY. A local law enforcement authority, on request or in the
9 normal course of official business, shall release or transfer
10 information concerning the treatment of a sex offender to:

- 11 (1) another local law enforcement authority;
- 12 (2) a criminal justice agency; or
- 13 (3) a person described by Section 109.051(a).

14 SECTION 4. Subchapter B, Chapter 109, Occupations Code, is
15 amended by adding Section 109.054 to read as follows:

16 Sec. 109.054. TREATMENT INFORMATION. In this subchapter,
17 information concerning the treatment of a sex offender includes:

- 18 (1) criminal history;
- 19 (2) the discharge summary;
- 20 (3) the official offense report;
- 21 (4) progress reports;
- 22 (5) test results;
- 23 (6) victim statements; and
- 24 (7) any other additional information necessary for the
25 treatment of the sex offender.

26 SECTION 5. Section 110.301, Occupations Code, is amended to
27 read as follows:

1 Sec. 110.301. [~~USE OF TITLE,~~] REGISTRATION REQUIRED. (a)
2 A person may not provide a rehabilitation service or act as a sex
3 offender treatment provider unless the person is listed in the
4 registry.

5 (b) A person may not claim to be a sex offender treatment
6 provider, or use the title "sex offender treatment provider" or a
7 similar title or an abbreviation that implies the person is a sex
8 offender treatment provider, unless the person is listed in the
9 registry.

10 SECTION 6. Subchapter G, Chapter 110, Occupations Code, is
11 amended by adding Section 110.3015 to read as follows:

12 Sec. 110.3015. EXEMPTION FOR TEXAS DEPARTMENT OF CRIMINAL
13 JUSTICE INSTITUTIONAL DIVISION. This subchapter does not apply to
14 a person employed by the institutional division of the Texas
15 Department of Criminal Justice.

16 SECTION 7. The heading to Section 110.401, Occupations
17 Code, is amended to read as follows:

18 Sec. 110.401. OFFENSE [~~:- MISUSE OF TITLE~~].

19 SECTION 8. Chapter 110, Occupations Code, is amended by
20 adding Subchapter K to read as follows:

21 SUBCHAPTER K. ADULT FORENSIC ASSESSMENT PILOT PROGRAM

22 Sec. 110.501. APPLICABILITY. This subchapter applies only
23 to adult sex offenders who are treated in a municipality with a
24 population of 1,150,000 or more.

25 Sec. 110.502. DYNAMIC RISK ASSESSMENT. The council shall
26 work directly with the appropriate entities to develop, implement,
27 and research the dynamic risk assessment conducted under this

1 subchapter.

2 Sec. 110.503. PRESENTENCING ASSESSMENT. Before a sex
3 offender is sentenced, a sex offender treatment provider who is
4 listed in the registry must conduct a forensic assessment,
5 including a psychosexual assessment, on the sex offender.

6 Sec. 110.504. CONTENT OF PSYCHOSEXUAL ASSESSMENT. The
7 psychosexual assessment must include:

8 (1) a clinical interview;

9 (2) a review of the sex offender's records, including
10 the police report, victim's statement, arrest record, existing
11 psychological reports, grand jury indictment, and child welfare
12 reports and any other relevant records;

13 (3) a physiological assessment, including a penile
14 plethysmography, or an alternative method if medical or gender
15 issues prevent a physiological assessment;

16 (4) formal tests, including traditional tests and a
17 risk assessment;

18 (5) a psychopathy assessment; and

19 (6) a substance abuse analysis.

20 Sec. 110.505. SEXUAL HISTORY POLYGRAPH. Not later than the
21 first anniversary of the date a sex offender is sentenced, a
22 polygraph examiner shall conduct the following polygraph
23 examinations on the sex offender:

24 (1) a sexual history polygraph;

25 (2) an instant offense polygraph;

26 (3) a maintenance polygraph; and

27 (4) a monitoring polygraph.

1 Sec. 110.506. This subchapter expires September 1, 2007.

2 SECTION 9. (a) The change in law made by this Act to the
3 elements of an offense under Section 110.401, Occupations Code,
4 applies only to an offense committed on or after the effective date
5 of this Act.

6 (b) An offense committed before the effective date of this
7 Act is governed by the law in effect when the offense was committed,
8 and the former law is continued in effect for that purpose.

9 (c) For purposes of this section, an offense is committed
10 before the effective date of this Act if any element of the offense
11 occurs before that date.

12 SECTION 10. This Act takes effect September 1, 2005.