

BILL ANALYSIS

C.S.H.B. 3489
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, there is no statutory requirement for a nursing home, assisted living facility, or an intermediate care facility for the mentally retarded to do a background check on residents, nor is there a requirement that a resident report their status to the facility. In most cases, the facility and other residents are unaware that a criminal offender may reside in the facility. As a result, it is estimated that as many as 150 registered sex offenders reside in Texas nursing homes among some of the most vulnerable members of society. C.S.H.B. 3489 would require a registered sex offender to notify the health care facility of their status as a sex offender and would require the facility to keep a log of all registered sex offenders residing at that facility.

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

C.S.H.B. 3489 amends the Code of Criminal Procedure to provide that a person required to register under Chapter 62 (Sex Offender Registration Form), Code of Criminal Procedure, who resides or intends to reside in a facility licensed under Chapter 242, 247, or 252, Health and Safety Code, must notify the facility in writing of the person's registration status.

The bill also provides that before releasing the person, who is subject to registration, from a penal institution, an official of the institution must inform the person that if the person resides or intends to reside in a facility licensed under Chapter 242, 247, or 252, Health and Safety Code, the person must notify the facility of the person's registration status.

The bill amends the Health and Safety Code and adds that upon receiving notice under Article 62.051(j), Code of Criminal Procedure, the institution, assisted living facility, and intermediate care facility for the mentally retarded must maintain a log containing the registered sex offender's first, middle, and last names, sex, race, birthdate, including month, day, and year, previous address, and date of admission to the facility. The log must be kept in the administrator's office and made available for inspection by the public. The bill provides that this does not create a cause of action, and if a person who is required to register under Chapter 62, Code of Criminal Procedure, fails to notify the institution, as required by Article 62.051(j), Code of Criminal Procedure, the institution and facilities are not liable for damages arising from the failure to include the required information in the log, and have not violated Chapter 242, Health and Safety Code, and are not criminally liable or liable for a penalty under this chapter for the failure to include the required information in the log.

The bill also states that the Department of Human Services (department) is authorized to assess an administrative penalty against a person who refuses to allow any person to review a log required to be maintained under Section 242.018, 247.007 and 252.012, Health and Safety Code.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute specifies that the log maintained by the institution, assisted living facility, and intermediate care facility for the mentally retarded contain the registered sex offender's first, middle, and last names, sex, race, birthdate, including month, day, and year, previous address, and date of admission to the facility, and that the log must be kept in the administrator's office. The substitute provides that this does not create a cause of action, and if a person who is required to register under Chapter 62, Code of Criminal Procedure, fails to notify the institution, as required by Article 62.051(j), Code of Criminal Procedure, the institution and facilities are not liable for damages arising from the failure to include the required information in the log, and have not violated Chapter 242, Health and Safety Code, and are not criminally liable or liable for a penalty under this chapter for the failure to include the required information in the log.

The substitute does not amend Article 62.102(a), Code of Criminal Procedure, whereas the original bill did amend this article.