

1-1 By: Madden, et al. (Senate Sponsor - Hinojosa) H.B. No. 430
1-2 (In the Senate - Received from the House May 14, 2007;
1-3 May 15, 2007, read first time and referred to Committee on Criminal
1-4 Justice; May 18, 2007, reported favorably by the following vote:
1-5 Yeas 6, Nays 0; May 18, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the monitoring of certain high-risk sex offenders and
1-9 to information concerning certain sex offenders.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subchapter B, Chapter 62, Code of Criminal
1-12 Procedure, is amended by adding Article 62.0531 to read as follows:

1-13 Art. 62.0531. DETERMINATION OF PREDATORY RISK LEVEL. (a)
1-14 In this article, "sexually predatory conduct" means conduct that is
1-15 engaged in for the purpose of victimization and that:

1-16 (1) is directed toward a stranger, a person of casual
1-17 acquaintance with whom no substantial relationship exists, or a
1-18 person with whom a relationship has been established or promoted
1-19 for the purpose of victimization; and

1-20 (2) violates:

1-21 (A) Section 21.11(a)(1), 22.011, or 22.021,
1-22 Penal Code;

1-23 (B) Section 43.25, Penal Code;

1-24 (C) Section 20.04(a)(4), Penal Code, if the
1-25 conduct is committed with the intent to violate or abuse the victim
1-26 of the conduct sexually; or

1-27 (D) Section 30.02, Penal Code, if the conduct is
1-28 punishable under Subsection (d) of that section and is committed
1-29 with the intent to engage in conduct described by Paragraph (A) or
1-30 (C).

1-31 (b) In addition to assigning to a person a numeric risk
1-32 level of one, two, or three under Article 62.053(a), before a person
1-33 who will be subject to registration under this chapter and who will
1-34 be described by Article 62.063(b) on or after release is due to be
1-35 released from a penal institution, the Texas Department of Criminal
1-36 Justice or the Texas Youth Commission, as applicable, using the
1-37 dynamic risk assessment tool developed or adopted by the Council on
1-38 Sex Offender Treatment under Section 110.164, Occupations Code,
1-39 shall:

1-40 (1) determine the likelihood that the person will
1-41 engage in a predatory act of sexual violence after being released
1-42 from the institution; and

1-43 (2) assign to the person a predatory risk level of low,
1-44 medium, or high.

1-45 SECTION 2. Subchapter B, Chapter 62, Code of Criminal
1-46 Procedure, is amended by adding Article 62.063 to read as follows:

1-47 Art. 62.063. MONITORING OF CERTAIN HIGH-RISK REGISTRANTS.

1-48 (a) In this article, "monitoring system" means an electronic
1-49 monitoring service, global positioning satellite service, or other
1-50 appropriate technological service that is designed to track a
1-51 person's location.

1-52 (b) This article applies only to a person who is released
1-53 from a penal institution, who is required to register under this
1-54 chapter as the result of a reportable conviction or adjudication,
1-55 and who:

1-56 (1) is not under the supervision and control of:

1-57 (A) a juvenile probation office or an agency or
1-58 entity operating under contract with a juvenile probation office;

1-59 (B) the Texas Youth Commission;

1-60 (C) a community supervision and corrections
1-61 department; or

1-62 (D) the parole division of the Texas Department
1-63 of Criminal Justice; or

1-64 (2) has not been civilly committed under Chapter 841,

2-1 Health and Safety Code.

2-2 (c) A person described by Subsection (b) who, under Article
 2-3 62.0531, is assigned a predatory risk level of high shall
 2-4 participate in the monitoring system program described by
 2-5 Subsection (d). A person's duty to participate in the program
 2-6 expires on the third anniversary of the date the person is released
 2-7 from the penal institution.

2-8 (d) The department shall implement and coordinate a
 2-9 monitoring system program that tracks the location of persons
 2-10 subject to this article. The monitoring system program implemented
 2-11 under this subsection must require:

2-12 (1) the department to provide to each local law
 2-13 enforcement authority designated as the primary registration
 2-14 authority under this chapter for a person subject to this article
 2-15 monitoring system equipment that is sufficient to track the
 2-16 location of the person;

2-17 (2) each local law enforcement authority designated as
 2-18 a person's primary registration authority under this chapter to
 2-19 use the monitoring system equipment provided under Subdivision (1)
 2-20 to verify the authenticity of any geographically verifiable
 2-21 information contained in the registration form of a person subject
 2-22 to this article, including the person's residence; and

2-23 (3) the manufacturer or vendor of the monitoring
 2-24 system equipment provided to a local law enforcement authority
 2-25 under Subdivision (1) to provide training and technological support
 2-26 to the authority with respect to the equipment.

2-27 (e) A monitoring system that is part of the monitoring
 2-28 system program described by Subsection (d) must track a person's
 2-29 location and periodically provide a cumulative report of a tracked
 2-30 person's location to the department. The monitoring system does
 2-31 not have to be capable of tracking a person's location in real time
 2-32 or providing a real-time report of a person's location to the
 2-33 department.

2-34 (f) A person who is not indigent and who is required to
 2-35 participate in the monitoring system program described by
 2-36 Subsection (d) is responsible for the cost of the monitoring system
 2-37 and monthly shall pay to the person's primary registration
 2-38 authority and to the department the amount that the primary
 2-39 registration authority or department, as applicable, determines is
 2-40 necessary to defray that entity's cost of operating the system with
 2-41 respect to the person during the previous month.

2-42 (g) The director of the department shall adopt rules as
 2-43 necessary to implement and coordinate the monitoring system program
 2-44 described by Subsection (d).

2-45 SECTION 3. Subchapter D, Chapter 110, Occupations Code, is
 2-46 amended by adding Section 110.164 to read as follows:

2-47 Sec. 110.164. DYNAMIC RISK ASSESSMENT TOOL. (a) The
 2-48 council shall develop or adopt a dynamic risk assessment tool to be
 2-49 used in determining the likelihood that a person confined in a penal
 2-50 institution will engage in a predatory act of sexual violence after
 2-51 being released from the institution.

2-52 (b) The dynamic risk assessment tool must enable the
 2-53 assignment to a person of a predatory risk level of low, medium, or
 2-54 high.

2-55 SECTION 4. Subchapter A, Chapter 62, Code of Criminal
 2-56 Procedure, is amended by adding Article 62.0052 to read as follows:

2-57 Art. 62.0052. ELECTRONIC MAIL REPORTS FOR STATE
 2-58 LEGISLATORS. (a) The department shall maintain an electronic mail
 2-59 report service to which a member of the house of representatives or
 2-60 the senate of this state may electronically subscribe.

2-61 (b) The electronic mail report service maintained under
 2-62 Subsection (a) must:

2-63 (1) allow a subscribing representative or senator to
 2-64 request for each zip code any portion of which is located in the
 2-65 representative's or senator's district notification of:

2-66 (A) the release from a penal institution or
 2-67 placement on deferred adjudication community supervision,
 2-68 community supervision, or juvenile probation of a person who
 2-69 expects to reside or resides in that zip code and is required to

3-1 register under this chapter; and
3-2 (B) any change in address of a person who expects
3-3 to reside or resides in that zip code and is required to register
3-4 under this chapter; and

3-5 (2) not less frequently than monthly, deliver to the
3-6 subscribing representative or senator a report containing the
3-7 information described by Subdivision (1).

3-8 (c) The department must include any public information
3-9 described by Article 62.005 in an electronic mail report sent to a
3-10 subscribing representative or senator.

3-11 SECTION 5. (a) Articles 62.0531 and 62.063, Code of
3-12 Criminal Procedure, as added by this Act, apply only to a person who
3-13 is released from a penal institution on or after January 1, 2008. A
3-14 person who is released from a penal institution before January 1,
3-15 2008, is governed by the law in effect at the time the person is
3-16 released from the penal institution, and that former law is
3-17 continued in effect for that purpose.

3-18 (b) The Department of Public Safety shall implement the
3-19 monitoring system program described by Article 62.063, Code of
3-20 Criminal Procedure, as added by this Act, so that the program is
3-21 fully functional not later than January 1, 2008.

3-22 (c) The Department of Public Safety shall issue a Request
3-23 for Qualifications or Proposal not later than September 15, 2007.
3-24 The selection process must include a side-by-side comparison
3-25 testing the products submitted in the RFQ/P. In awarding a
3-26 contract, the test results, product reliability, functionality,
3-27 and public safety must be given, at a minimum, equal consideration
3-28 to cost.

3-29 (d) The Department of Public Safety may only receive
3-30 responses from and contract with an Original Equipment
3-31 Manufacturer.

3-32 SECTION 6. This Act takes effect immediately if it receives
3-33 a vote of two-thirds of all the members elected to each house, as
3-34 provided by Section 39, Article III, Texas Constitution. If this
3-35 Act does not receive the vote necessary for immediate effect, this
3-36 Act takes effect September 1, 2007.

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