

By: King of Taylor, et al.

H.B. No. 3489

Substitute the following for H.B. No. 3489:

By: Pena

C.S.H.B. No. 3489

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the registration requirements for sex offenders
3 residing in certain health care facilities.

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

5 SECTION 1. Article 62.051, Code of Criminal Procedure, is
6 amended by adding Subsection (j) to read as follows:

7 (j) A person required to register under this chapter who
8 resides or intends to reside in a facility licensed under Chapter
9 242, 247, or 252, Health and Safety Code, shall notify the facility
10 in writing of the person's registration status under this chapter.

11 SECTION 2. Article 62.053(a), Code of Criminal Procedure,
12 is amended to read as follows:

13 (a) Before a person who will be subject to registration
14 under this chapter is due to be released from a penal institution,
15 the Texas Department of Criminal Justice or the Texas Youth
16 Commission shall determine the person's level of risk to the
17 community using the sex offender screening tool developed or
18 selected under Article 62.007 and assign to the person a numeric
19 risk level of one, two, or three. Before releasing the person, an
20 official of the penal institution shall:

21 (1) inform the person that:

22 (A) not later than the later of the seventh day
23 after the date on which the person is released or after the date on
24 which the person moves from a previous residence to a new residence

1 in this state or not later than the later of the first date the
2 applicable local law enforcement authority by policy allows the
3 person to register or verify registration, the person must register
4 or verify registration with the local law enforcement authority in
5 the municipality or county in which the person intends to reside;

6 (B) not later than the seventh day after the date
7 on which the person is released or the date on which the person
8 moves from a previous residence to a new residence in this state,
9 the person must, if the person has not moved to an intended
10 residence, report to the juvenile probation officer, community
11 supervision and corrections department officer, or parole officer
12 supervising the person;

13 (C) not later than the seventh day before the
14 date on which the person moves to a new residence in this state or
15 another state, the person must report in person to the local law
16 enforcement authority designated as the person's primary
17 registration authority by the department and to the juvenile
18 probation officer, community supervision and corrections
19 department officer, or parole officer supervising the person;

20 (D) not later than the 10th day after the date on
21 which the person arrives in another state in which the person
22 intends to reside, the person must register with the law
23 enforcement agency that is identified by the department as the
24 agency designated by that state to receive registration
25 information, if the other state has a registration requirement for
26 sex offenders;

27 (E) not later than the 30th day after the date on

1 which the person is released, the person must apply to the
2 department in person for the issuance of an original or renewal
3 driver's license or personal identification certificate and a
4 failure to apply to the department as required by this paragraph
5 results in the automatic revocation of any driver's license or
6 personal identification certificate issued by the department to the
7 person; ~~and~~

8 (F) the person must notify appropriate entities
9 of any change in status as described by Article 62.057; and

10 (G) if the person resides or intends to reside in
11 a facility licensed under Chapter 242, 247, or 252, Health and
12 Safety Code, the person must notify the facility of the person's
13 registration status under this chapter;

14 (2) require the person to sign a written statement
15 that the person was informed of the person's duties as described by
16 Subdivision (1) or Subsection (g) or, if the person refuses to sign
17 the statement, certify that the person was so informed;

18 (3) obtain the address where the person expects to
19 reside on the person's release and other registration information,
20 including a photograph and complete set of fingerprints; and

21 (4) complete the registration form for the person.

22 SECTION 3. Subchapter A, Chapter 242, Health and Safety
23 Code, is amended by adding Section 242.018 to read as follows:

24 Sec. 242.018. SEX OFFENDER STATUS OF RESIDENTS. (a) Upon
25 receiving notice under Article 62.051(j), Code of Criminal
26 Procedure, the institution shall maintain a log containing the
27 registered sex offender's first, middle, and last names, sex, race,

1 birthdate, including month, day, and year, previous address, and
2 date of admission to the facility. The log shall be kept in the
3 administrator's office and made available for inspection by the
4 public.

5 (b) This section does not create a cause of action, and if a
6 person who is required to register under Chapter 62, Code of
7 Criminal Procedure, fails to notify the institution, as required by
8 Article 62.051(j), Code of Criminal Procedure, the institution:

9 (1) is not liable for damages arising from the failure
10 to include the required information in the log; and

11 (2) has not violated this chapter and is not
12 criminally liable or liable for a penalty under this chapter for the
13 failure to include the required information in the log.

14 SECTION 4. Section 242.066(a), Health and Safety Code, is
15 amended to read as follows:

16 (a) The department may assess an administrative penalty
17 against a person who:

18 (1) violates this chapter or a rule, standard, or
19 order adopted or license issued under this chapter;

20 (2) makes a false statement, that the person knows or
21 should know is false, of a material fact:

22 (A) on an application for issuance or renewal of
23 a license or in an attachment to the application; or

24 (B) with respect to a matter under investigation
25 by the department;

26 (3) refuses to allow a representative of the
27 department to inspect:

1 (A) a book, record, or file required to be
2 maintained by an institution; or

3 (B) any portion of the premises of an
4 institution;

5 (4) refuses to allow any person to review a log
6 required to be maintained under Section 242.018;

7 (5) [~~(4)~~] wilfully interferes with the work of a
8 representative of the department or the enforcement of this
9 chapter;

10 (6) [~~(5)~~] wilfully interferes with a representative
11 of the department preserving evidence of a violation of this
12 chapter or a rule, standard, or order adopted or license issued
13 under this chapter; or

14 (7) [~~(6)~~] fails to pay a penalty assessed by the
15 department under this chapter not later than the 10th day after the
16 date the assessment of the penalty becomes final.

17 SECTION 5. Subchapter A, Chapter 247, Health and Safety
18 Code, is amended by adding Section 247.007 to read as follows:

19 Sec. 247.007. SEX OFFENDER STATUS OF RESIDENTS. (a) Upon
20 receiving notice under Article 62.051(j), Code of Criminal
21 Procedure, the assisted living facility shall maintain a log
22 containing the registered sex offender's first, middle, and last
23 names, sex, race, birthdate, including month, day, and year,
24 previous address, and date of admission to the facility. The log
25 shall be kept in the administrator's office and made available for
26 inspection by the public.

27 (b) This section does not create a cause of action, and if a

1 person who is required to register under Chapter 62, Code of
2 Criminal Procedure, fails to notify the assisted living facility,
3 as required by Article 62.051(j), Code of Criminal Procedure, the
4 facility:

5 (1) is not liable for damages arising from the failure
6 to include the required information in the log; and

7 (2) has not violated this chapter and is not
8 criminally liable or liable for a penalty under this chapter for the
9 failure to include the required information in the log.

10 SECTION 6. Section 247.0451(a), Health and Safety Code, is
11 amended to read as follows:

12 (a) The department may assess an administrative penalty
13 against a person who:

14 (1) violates this chapter or a rule, standard, or
15 order adopted under this chapter or a term of a license issued under
16 this chapter;

17 (2) makes a false statement, that the person knows or
18 should know is false, of a material fact:

19 (A) on an application for issuance or renewal of
20 a license or in an attachment to the application; or

21 (B) with respect to a matter under investigation
22 by the department;

23 (3) refuses to allow a representative of the
24 department to inspect:

25 (A) a book, record, or file required to be
26 maintained by an assisted living facility; or

27 (B) any portion of the premises of an assisted

1 living facility;

2 (4) refuses to allow any person to review a log
3 required to be maintained under Section 247.007;

4 (5) [~~4~~] wilfully interferes with the work of a
5 representative of the department or the enforcement of this
6 chapter;

7 (6) [~~5~~] wilfully interferes with a representative
8 of the department preserving evidence of a violation of this
9 chapter or a rule, standard, or order adopted under this chapter or
10 a term of a license issued under this chapter; or

11 (7) [~~6~~] fails to pay a penalty assessed under this
12 chapter not later than the 30th day after the date the assessment of
13 the penalty becomes final.

14 SECTION 7. Subchapter A, Chapter 252, Health and Safety
15 Code, is amended by adding Section 252.012 to read as follows:

16 Sec. 252.012. SEX OFFENDER STATUS OF RESIDENTS. (a) Upon
17 receiving notice under Article 62.051(j), Code of Criminal
18 Procedure, the facility shall maintain a log containing the
19 registered sex offender's first, middle, and last names, sex, race,
20 birthdate, including month, day, and year, previous address, and
21 date of admission to the facility. The log shall be kept in the
22 administrator's office and made available for inspection by the
23 public.

24 (b) This section does not create a cause of action, and if a
25 person who is required to register under Chapter 62, Code of
26 Criminal Procedure, fails to notify the facility, as required by
27 Article 62.051(j), Code of Criminal Procedure, the facility:

1 (1) is not liable for damages arising from the failure
2 to include the required information in the log; and

3 (2) has not violated this chapter and is not
4 criminally liable or liable for a penalty under this chapter for the
5 failure to include the required information in the log.

6 SECTION 8. Section 252.065(a), Health and Safety Code, is
7 amended to read as follows:

8 (a) The department may assess an administrative penalty
9 against a facility that:

10 (1) violates this chapter or a rule adopted under this
11 chapter; or

12 (2) refuses to allow any person to review a log
13 required to be maintained under Section 252.012.

14 SECTION 9. This Act takes effect September 1, 2007.