

By: Harris

S.B. No. 88

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the proximity of certain sex offenders' residences to
3 premises where children commonly gather.

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

5 SECTION 1. Subchapter B, Chapter 62, Code of Criminal
6 Procedure, is amended by adding Article 62.065 to read as follows:

7 Art. 62.065. PROHIBITED LOCATIONS OF RESIDENCE. (a)
8 Except as provided by Subsection (b), this article applies only to a
9 person who is required to register under this chapter because of one
10 or more reportable convictions or adjudications involving a victim
11 younger than 17 years of age.

12 (b) This article does not apply to a person who is eligible
13 under Article 62.301 to petition the court for an order exempting
14 the person from registration under this chapter, regardless of
15 whether:

16 (1) the person petitions the court; or

17 (2) the court issues an order described by this
18 subsection.

19 (c) A person described by Subsection (a) may not reside
20 within 1,000 feet of a premises described by Section 13B(a)(1)(B),
21 Article 42.12.

22 SECTION 2. Section 3(e), Article 42.12, Code of Criminal
23 Procedure, is amended to read as follows:

24 (e) A defendant is not eligible for community supervision

1 under this section if the defendant:

2 (1) is sentenced to a term of imprisonment that
3 exceeds 10 years; ~~or~~

4 (2) is sentenced to serve a term of confinement under
5 Section 12.35, Penal Code; or

6 (3) is convicted of an offense under Article 62.102
7 that consists of a second or subsequent violation of Article
8 62.065.

9 SECTION 3. Section 4(d), Article 42.12, Code of Criminal
10 Procedure, is amended to read as follows:

11 (d) A defendant is not eligible for community supervision
12 under this section if the defendant:

13 (1) is sentenced to a term of imprisonment that
14 exceeds 10 years;

15 (2) is convicted of a state jail felony for which
16 suspension of the imposition of the sentence occurs automatically
17 under Section 15(a);

18 (3) does not file a sworn motion under Subsection (e)
19 of this section or for whom the jury does not enter in the verdict a
20 finding that the information contained in the motion is true; ~~or~~

21 (4) is adjudged guilty of an offense for which
22 punishment is increased under Section 481.134(c), (d), (e), or (f),
23 Health and Safety Code, if it is shown that the defendant has been
24 previously convicted of an offense for which punishment was
25 increased under any one of those subsections; or

26 (5) is convicted of an offense under Article 62.102
27 that consists of a second or subsequent violation of Article

1 62.065.

2 SECTION 4. Section 5(d), Article 42.12, Code of Criminal
3 Procedure, is amended to read as follows:

4 (d) In all other cases the judge may grant deferred
5 adjudication unless:

6 (1) the defendant is charged with an offense:

7 (A) under Section 49.04, 49.05, 49.06, 49.07, or
8 49.08, Penal Code; ~~or~~

9 (B) for which punishment may be increased under
10 Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it
11 is shown that the defendant has been previously convicted of an
12 offense for which punishment was increased under any one of those
13 subsections; or

14 (C) under Article 62.102 that consists of a
15 second or subsequent violation of Article 62.065; or

16 (2) the defendant:

17 (A) is charged with an offense under Section
18 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the
19 victim, or a felony described by Section 13B(b) of this article; and

20 (B) has previously been placed on community
21 supervision for any offense under Paragraph (A) of this
22 subdivision.

23 SECTION 5. Section 13B(a), Article 42.12, Code of Criminal
24 Procedure, is amended to read as follows:

25 (a) If a judge grants community supervision to a defendant
26 described by Subsection (b) and the judge determines that a child as
27 defined by Section 22.011(c), Penal Code, was the victim of the

1 offense, the judge shall establish a child safety zone applicable
2 to the defendant by requiring as a condition of community
3 supervision that the defendant:

4 (1) not:

5 (A) supervise or participate in any program that
6 includes as participants or recipients persons who are 17 years of
7 age or younger and that regularly provides athletic, civic, or
8 cultural activities; or

9 (B) reside within or go in, on, or within 1,000
10 feet of a premises where children commonly gather, including a
11 school, day-care facility, playground, public or private youth
12 center, public swimming pool, public park, or video arcade
13 facility; and

14 (2) attend psychological counseling sessions for sex
15 offenders with an individual or organization which provides sex
16 offender treatment or counseling as specified by or approved by the
17 judge or the community supervision and corrections department
18 officer supervising the defendant.

19 SECTION 6. Section 508.145(a), Government Code, is amended
20 to read as follows:

21 (a) An inmate under sentence of death, [or] serving a
22 sentence of life imprisonment without parole, or serving a sentence
23 for an offense under Article 62.102, Code of Criminal Procedure,
24 that consists of a second or subsequent violation of Article
25 62.065, Code of Criminal Procedure, is not eligible for release on
26 parole.

27 SECTION 7. Section 508.149(a), Government Code, is amended

1 to read as follows:

2 (a) An inmate may not be released to mandatory supervision
3 if the inmate is serving a sentence for or has been previously
4 convicted of:

5 (1) an offense for which the judgment contains an
6 affirmative finding under Section 3g(a)(2), Article 42.12, Code of
7 Criminal Procedure;

8 (2) a first degree felony or a second degree felony
9 under Section 19.02, Penal Code;

10 (3) a capital felony under Section 19.03, Penal Code;

11 (4) a first degree felony or a second degree felony
12 under Section 20.04, Penal Code;

13 (5) a second degree felony or a third degree felony
14 under Section 21.11, Penal Code;

15 (6) a second degree felony under Section 22.011, Penal
16 Code;

17 (7) a first degree felony or a second degree felony
18 under Section 22.02, Penal Code;

19 (8) a first degree felony under Section 22.021, Penal
20 Code;

21 (9) a first degree felony under Section 22.04, Penal
22 Code;

23 (10) a first degree felony under Section 28.02, Penal
24 Code;

25 (11) a second degree felony under Section 29.02, Penal
26 Code;

27 (12) a first degree felony under Section 29.03, Penal

1 Code;

2 (13) a first degree felony under Section 30.02, Penal
3 Code; ~~or~~

4 (14) a felony for which the punishment is increased
5 under Section 481.134 or Section 481.140, Health and Safety Code;
6 or

7 (15) an offense under Article 62.102, Code of Criminal
8 Procedure, that consists of a second or subsequent violation of
9 Article 62.065, Code of Criminal Procedure.

10 SECTION 8. Section 508.187(b), Government Code, is amended
11 to read as follows:

12 (b) A parole panel shall establish a child safety zone
13 applicable to a releasee if the panel determines that a child as
14 defined by Section 22.011(c), Penal Code, was the victim of the
15 offense, by requiring as a condition of parole or mandatory
16 supervision that the releasee:

17 (1) not:

18 (A) supervise or participate in any program that
19 includes as participants or recipients persons who are 17 years of
20 age or younger and that regularly provides athletic, civic, or
21 cultural activities; ~~or~~

22 (B) go in, on, or within a distance specified by
23 the panel of premises where children commonly gather, including a
24 school, day-care facility, playground, public or private youth
25 center, public swimming pool, public park, or video arcade
26 facility; or

27 (C) reside within 1,000 feet of a premises

1 described by Paragraph (B); and

2 (2) attend for a period of time determined necessary
3 by the panel psychological counseling sessions for sex offenders
4 with an individual or organization that provides sex offender
5 treatment or counseling as specified by the parole officer
6 supervising the releasee after release.

7 SECTION 9. (a) If conditions of community supervision or
8 release on parole or mandatory supervision imposed before the
9 effective date of this Act do not prohibit a defendant described by
10 Section 13B(b), Article 42.12, Code of Criminal Procedure, or a
11 releasee described by Section 508.187(a), Government Code, as
12 applicable, from residing within the child safety zone established
13 by this Act, the court or parole panel, as appropriate, shall modify
14 the conditions of supervision or parole as applicable to impose
15 those prohibitions.

16 (b) The changes in law made by this Act in amending Section
17 13B(a), Article 42.12, Code of Criminal Procedure, and Section
18 508.187(b), Government Code, apply to a person who is placed on
19 community supervision or released on parole or mandatory
20 supervision before, on, or after the effective date of this Act.

21 (c) The changes in law made by this Act in amending Chapter
22 62, Code of Criminal Procedure, apply to a person who is subject to
23 registration under Chapter 62, Code of Criminal Procedure, on or
24 after the effective date of this Act, regardless of whether the
25 applicable offense or conduct occurs before, on, or after the
26 effective date of this Act.

27 SECTION 10. This Act takes effect September 1, 2007.