

BILL ANALYSIS

C.S.H.B. 22
By: Leibowitz
Technology, Economic Development & Workforce
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Sexual predators of children are increasingly using the Internet to communicate with potential victims. A sexual predator may use e-mail, chat rooms, and social networking sites that are also used by children. In February 2009, the social networking site MySpace reported the identification and removal of 90,000 registered sex offenders from its membership.

C.S.H.B. 22 requires a registered sex offender to register all Internet communication identifiers, including e-mail addresses as well as names used for chat rooms, instant messaging, social networking sites, and similar online communications. The bill requires the offender to report the identifiers upon first registration and to register any new identifiers established or used after initial registration.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Department of Public Safety in SECTION 4 of this bill.

ANALYSIS

C.S.H.B. 22 amends the Code of Criminal Procedure to require a court that grants community supervision to a defendant who is convicted of or receives a grant of deferred adjudication for an offense involving online solicitation of a minor, or who is assigned a numeric risk level of two or three to prohibit, as a condition of community supervision, the defendant from using the Internet to access pornographic material; access a commercial social networking site; communicate with one or more individuals for the purpose of promoting sexual relations with an individual who is younger than 18 years of age; or, if the defendant is 18 years of age or older, communicate with another individual the defendant knows is younger than 18 years of age. The bill defines "commercial social networking site" as any business, organization, or other similar entity operating a website that permits persons to become registered users for the purpose of establishing personal relationships with other users through direct or real time communication or the creation of web pages or profiles. The bill establishes that the term does not include an electronic mail program or a message board program.

C.S.H.B. 22 requires the Department of Public Safety (DPS) to release all relevant sex offender registration information to the attorney general on the attorney general's written request providing DPS with a person's name, driver's license number, personal identification certificate number, license plate number, or Internet communication identifier.

C.S.H.B. 22 requires DPS to establish a procedure by which commercial social networking sites and Internet service providers providing service in Texas may request all Internet communication identifiers belonging to a person listed in the sex offender computerized central database. The bill requires DPS, on receipt of such a request containing a person's name, driver's license number, personal identification certificate number, or Internet communication identifier, to confirm whether the person is required to register as a sex offender; and to provide the

networking site or service provider with all Internet communication identifiers listed for the person in the computerized central database. The bill authorizes a commercial social networking site or Internet service provider to use the information to prescreen persons seeking to use the site or service; or to preclude persons registered as sex offenders from using the site or service. The bill requires a commercial social networking site or Internet service provider that receives such information to promptly notify DPS, the attorney general, and appropriate local law enforcement authorities of any possible criminal activity engaged in by a person with respect to whom information was provided to the networking site or the service provider. The bill requires DPS, the attorney general, and authorities to establish a uniform procedure for exchanging sex offender registration information regarding any notification provided by a networking site or service provider.

C.S.H.B. 22 adds the following to the information required on the form provided by DPS for registration of a sex offender: assumed name, nickname, or pseudonym, including a screen name, used by the person, and the identification of any e-mail address, instant messaging address, or other Internet communication identifier established or used by the person. The bill requires DPS, by rule, to define "screen name" and "Internet communication identifier" for purposes of the registration form for the sex offender registration program.

C.S.H.B. 22 requires an official of a penal institution, before the release of a person who will be subject to registration as a sex offender, to inform the person that the person will be required, in addition to meeting other reporting requirements, to report any establishment or use of an e-mail address, instant messaging address, or other Internet communication identifier. The bill requires a registered sex offender who establishes or begins using an e-mail address, instant messaging address, or other Internet communication identifier to provide written notice to the applicable local law enforcement authority before the end of the next working day after the person establishes or begins using the address or identifier, and it requires the local law enforcement authority to forward the information to DPS not later than the third day after receipt of the information. The bill requires a local law enforcement authority who provides a person with a registration form for verification to include with the form a statement of the person's registration duties relating to a change of an e-mail address, instant messaging address, or other Internet communication identifier.

C.S.H.B. 22 makes conforming changes to the Family Code, Government Code, and Human Resources Code relating to prohibitions on Internet access for certain juvenile sex offenders or sex offenders, as applicable.

C.S.H.B. 22 makes provisions relating to prohibitions on Internet access by certain sex offenders applicable only to a person who is placed on community supervision or juvenile probation or released on parole or other supervision on or after the effective date of this act. The bill makes provisions relating a request for Internet communication identifiers by social networking sites and Internet service providers applicable to a person who is subject to registration as a sex offender for an offense or conduct that was committed before, on, or after the effective date of this act.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 22 adds provisions not in the original to establish prohibitions on Internet access as a condition of community supervision for certain sex offenders and to make conforming changes to the Family Code, Government Code, and Human Resources Code. The substitute adds a provision not in the original to define "commercial social networking site." The substitute adds a provision not in the original to require the Department of Public Safety (DPS) to release all

relevant sex offender registration information to the attorney general on the attorney general's written request providing DPS with a person's name and other information. The substitute adds provisions not in the original to require DPS to establish a procedure by which commercial social networking sites and Internet service providers may request all Internet communication identifiers belonging to a person listed in the computerized central database. The substitute adds a provision not in the original to specify the applicability of the bill's provisions to a person who is placed on community supervision or is subject to registration as a sex offender.