

BILL ANALYSIS

H.B. 3148
By: Smith, Todd
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The purpose of sex offender registration is to protect children from child molesters. Registration is not meant to place a person who is not a child molester under extended, sometimes lifetime, supervision. The monitoring and supervision of a person who is not a child molester wastes law enforcement resources and detracts law enforcement from closer scrutiny of the sex offenders for whom registration was intended—those who are dangerous to children. This bill permits judges to remove people who pose no risk to children from sex offender registration. When the continued registration of certain people as sex offenders compromises law enforcement's central mission, the court should be allowed to exempt those people from the registration.

H.B. 3148 authorizes a defendant for certain age-based sexual offenses that was not more than four years older than the victim who was at least 13 years of age to petition the court for exemption from sex offender registration. This bill allows age-based offenders convicted prior to the effective date of this bill to petition for exemption from registration. This bill complies with federal law set forth by the Adam Walsh Act.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority previously granted to the Council on Sex Offender Treatment is transferred to the Department of Public Safety in SECTION 4 of this bill.

ANALYSIS

H.B. 3148 amends the Code of Criminal Procedure to require a judge in a trial of a certain age-based sexual offense, to make an affirmative finding of fact and enter the affirmative finding in the judgment of the case if the judge determines that the conviction is based solely on the ages of the defendant and the victim or intended victim and, at the time of the offense, the defendant was not more than four years older than the victim or intended victim, rather than younger than 19 years of age, and the victim or intended victim was at least 13 years of age.

H.B. 3148 requires a judge who places a defendant charged with a certain sexual offense on deferred adjudication community supervision to make an affirmative finding of fact and file a statement of that affirmative finding with the papers in the case if the judge determines that the charge to which the plea is entered is based solely on the ages of the defendant and the victim or intended victim and, at the time of the offense, the defendant was not more than four years older than the victim or intended victim, rather than younger than 19 years of age, and the victim or intended victim was at least 13 years of age.

H.B. 3148 authorizes an eligible young adult sex offender to petition the court having jurisdiction over the case for an order exempting the person from sex offender registration at any time on or after the date of the person's sentencing or the date the person is placed on deferred adjudication community supervision, rather than only after the person's sentencing or placement on the supervision. The bill updates provisions specifying that a defendant who is convicted of or placed on deferred adjudication community supervision for a certain sexual offense before the

effective date of the bill is eligible to petition the court for an order exempting the person from sex offender registration and authorizing the court to consider the petition only if the petition states and the court finds that the defendant would have been entitled to the entry of an affirmative finding of fact regarding an age-based offense had the conviction or placement on deferred adjudication community supervision occurred after the effective date of this bill.

H.B. 3148 requires the Department of Public Safety, rather than the Council on Sex Offender Treatment, to determine by rule the minimum required registration period under the federal Adam Walsh Child Protection and Safety Act of 2006, rather than the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program, for each reportable conviction or adjudication under the Texas sex offender registration program for Texas to receive the maximum amount of federal money available to a state under that federal law. The bill requires the department, rather than the office, to compile and publish a list of reportable convictions or adjudications for which a person must register as a sex offender as provided by state law and, to periodically verify to the extent possible with the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, rather than with the Bureau of Justice Assistance, or another appropriate federal agency the accuracy of that list.

EFFECTIVE DATE

September 1, 2009.