

By: Leibowitz, Herrero

H.B. No. 22

Substitute the following for H.B. No. 22:

By: Parker

C.S.H.B. No. 22

A BILL TO BE ENTITLED

AN ACT

1
2 relating to restrictions on the use of the Internet by sex offenders
3 and to the collection and exchange of information regarding those
4 offenders.

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

6 SECTION 1. Section 11, Article 42.12, Code of Criminal
7 Procedure, is amended by adding Subsection (j) to read as follows:

8 (j)(1) If the court grants community supervision to a
9 defendant who is convicted of or receives a grant of deferred
10 adjudication for an offense under Section 33.021, Penal Code, or
11 who is assigned a numeric risk level of two or three based on an
12 assessment conducted under Article 62.007, the court as a condition
13 of community supervision shall prohibit the defendant from using
14 the Internet to:

15 (A) access pornographic material;

16 (B) access a commercial social networking site;

17 (C) communicate with one or more individuals for
18 the purpose of promoting sexual relations with an individual who is
19 younger than 18 years of age; or

20 (D) if the defendant is 18 years of age or older,
21 communicate with another individual the defendant knows is younger
22 than 18 years of age.

23 (2) In this subsection, "commercial social networking
24 site" has the meaning assigned by Article 62.0061.

1 SECTION 2. Article 62.005, Code of Criminal Procedure, is
2 amended by adding Subsection (j) to read as follows:

3 (j) The department shall release all relevant information
4 described by Subsection (a) to the attorney general on the attorney
5 general's written request providing the department with a person's
6 name, driver's license number, personal identification certificate
7 number, license plate number, or Internet communication
8 identifier.

9 SECTION 3. Subchapter A, Chapter 62, Code of Criminal
10 Procedure, is amended by adding Article 62.0061 to read as follows:

11 Art. 62.0061. REQUEST FOR INTERNET COMMUNICATION
12 IDENTIFIERS BY SOCIAL NETWORKING SITES AND INTERNET SERVICE
13 PROVIDERS. (a) The department shall establish a procedure by which
14 commercial social networking sites and Internet service providers
15 providing service in this state may request all Internet
16 communication identifiers belonging to a person listed in the
17 computerized central database. On receipt of a request submitted
18 under this article containing a person's name, driver's license
19 number, personal identification certificate number, or Internet
20 communication identifier, the department shall:

21 (1) confirm whether the person is required to register
22 under this chapter; and

23 (2) provide the networking site or service provider
24 with all Internet communication identifiers listed for the person
25 in the computerized central database.

26 (b) A commercial social networking site or Internet service
27 provider may use the information to:

1 (1) prescreen persons seeking to use the site or
2 service; or

3 (2) preclude persons registered under this chapter
4 from using the site or service.

5 (c) A commercial social networking site or Internet service
6 provider that receives information under this article promptly
7 shall notify the department, the attorney general, and appropriate
8 local law enforcement authorities of any possible criminal activity
9 engaged in by a person with respect to whom information was provided
10 to the networking site or the service provider under Subsection
11 (a). The department, attorney general, and authorities shall
12 establish a uniform procedure for exchanging information regarding
13 any notification provided by a networking site or service provider
14 under this subsection.

15 (d) In this section, "commercial social networking site"
16 means any business, organization, or other similar entity operating
17 a website that permits persons to become registered users for the
18 purpose of establishing personal relationships with other users
19 through direct or real time communication with other users or the
20 creation of web pages or profiles available to the public or to
21 other users. The term does not include an electronic mail program
22 or a message board program.

23 SECTION 4. Article 62.051, Code of Criminal Procedure, is
24 amended by amending Subsection (c) and adding Subsection (j) to
25 read as follows:

26 (c) The registration form shall require:

27 (1) the person's full name, [~~each alias,~~] date of

1 birth, sex, race, height, weight, eye color, hair color, social
2 security number, driver's license number, shoe size, and home
3 address, and each alias, assumed name, nickname, or pseudonym,
4 including a screen name, used by the person;

5 (2) a recent color photograph or, if possible, an
6 electronic digital image of the person and a complete set of the
7 person's fingerprints;

8 (3) the type of offense the person was convicted of,
9 the age of the victim, the date of conviction, and the punishment
10 received;

11 (4) an indication as to whether the person is
12 discharged, paroled, or released on juvenile probation, community
13 supervision, or mandatory supervision;

14 (5) an indication of each license, as defined by
15 Article 62.005(g), that is held or sought by the person;

16 (6) an indication as to whether the person is or will
17 be employed, carrying on a vocation, or a student at a particular
18 public or private institution of higher education in this state or
19 another state, and the name and address of that institution; ~~and~~

20 (7) the identification of any electronic mail address,
21 instant messaging address, or other Internet communication
22 identifier established or used by the person; and

23 (8) any other information required by the department.

24 (j) The department by rule shall define:

25 (1) "screen name" for the purposes of Subsection
26 (c)(1); and

27 (2) "Internet communication identifier" for the

1 purposes of Subsection (c)(7).

2 SECTION 5. Article 62.053(a), Code of Criminal Procedure,
3 is amended to read as follows:

4 (a) Before a person who will be subject to registration
5 under this chapter is due to be released from a penal institution,
6 the Texas Department of Criminal Justice or the Texas Youth
7 Commission shall determine the person's level of risk to the
8 community using the sex offender screening tool developed or
9 selected under Article 62.007 and assign to the person a numeric
10 risk level of one, two, or three. Before releasing the person, an
11 official of the penal institution shall:

12 (1) inform the person that:

13 (A) not later than the later of the seventh day
14 after the date on which the person is released or after the date on
15 which the person moves from a previous residence to a new residence
16 in this state or not later than the later of the first date the
17 applicable local law enforcement authority by policy allows the
18 person to register or verify registration, the person must register
19 or verify registration with the local law enforcement authority in
20 the municipality or county in which the person intends to reside;

21 (B) not later than the seventh day after the date
22 on which the person is released or the date on which the person
23 moves from a previous residence to a new residence in this state,
24 the person must, if the person has not moved to an intended
25 residence, report to the juvenile probation officer, community
26 supervision and corrections department officer, or parole officer
27 supervising the person;

1 (C) not later than the seventh day before the
2 date on which the person moves to a new residence in this state or
3 another state, the person must report in person to the local law
4 enforcement authority designated as the person's primary
5 registration authority by the department and to the juvenile
6 probation officer, community supervision and corrections
7 department officer, or parole officer supervising the person;

8 (D) not later than the 10th day after the date on
9 which the person arrives in another state in which the person
10 intends to reside, the person must register with the law
11 enforcement agency that is identified by the department as the
12 agency designated by that state to receive registration
13 information, if the other state has a registration requirement for
14 sex offenders;

15 (E) not later than the 30th day after the date on
16 which the person is released, the person must apply to the
17 department in person for the issuance of an original or renewal
18 driver's license or personal identification certificate and a
19 failure to apply to the department as required by this paragraph
20 results in the automatic revocation of any driver's license or
21 personal identification certificate issued by the department to the
22 person; ~~and~~

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

25 (G) the person must report any establishment or
26 use of an electronic mail address, instant messaging address, or
27 other Internet communication identifier in accordance with Article

1 62.0551;

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

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

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

10 SECTION 6. Subchapter B, Chapter 62, Code of Criminal
11 Procedure, is amended by adding Article 62.0551 to read as follows:

12 Art. 62.0551. CHANGE OF ELECTRONIC ADDRESS. (a) If a
13 person required to register under this chapter establishes or
14 begins to use an electronic mail address, instant messaging
15 address, or other Internet communication identifier, the person
16 shall, before the end of the next working day after the person
17 establishes or begins using the address or identifier, provide
18 written notice of the address or identifier to the local law
19 enforcement authority designated as the person's primary
20 registration authority by the department.

21 (b) Not later than the third day after receipt of
22 information under Subsection (a), the local law enforcement
23 authority shall forward the information to the department.

24 (c) For purposes of this article, "Internet communication
25 identifier" has the meaning assigned by the department under
26 Article 62.051(j)(2).

27 SECTION 7. Article 62.058, Code of Criminal Procedure, is

1 amended by adding Subsection (f) to read as follows:

2 (f) A local law enforcement authority who provides a person
3 with a registration form for verification as required by this
4 chapter shall include with the form a statement and description of
5 the person's registration duties under Article 62.0551.

6 SECTION 8. Chapter 54, Family Code, is amended by adding
7 Section 54.0409 to read as follows:

8 Sec. 54.0409. PROHIBITIONS ON INTERNET ACCESS FOR CERTAIN
9 JUVENILE SEX OFFENDERS. (a) If the juvenile court places on
10 probation under Section 54.04(d) a child who is assigned a numeric
11 risk level of two or three based on an assessment conducted under
12 Article 62.007, Code of Criminal Procedure, in addition to other
13 conditions of probation, the court shall prohibit the child from
14 using the Internet to:

- 15 (1) access pornographic material;
16 (2) access a commercial social networking site; or
17 (3) communicate with one or more individuals for the
18 purpose of promoting sexual relations with an individual who is
19 younger than 18 years of age.

20 (b) In this section, "commercial social networking site"
21 has the meaning assigned by Article 62.0061, Code of Criminal
22 Procedure.

23 SECTION 9. Subchapter F, Chapter 508, Government Code, is
24 amended by adding Section 508.1861 to read as follows:

25 Sec. 508.1861. PROHIBITIONS ON INTERNET ACCESS FOR CERTAIN
26 SEX OFFENDERS. (a) If the parole panel releases on parole or to
27 mandatory supervision a person who is serving a sentence for an

1 offense under Section 33.021, Penal Code, or who is assigned a
2 numeric risk level of two or three based on an assessment conducted
3 under Article 62.007, Code of Criminal Procedure, the parole panel
4 as a condition of parole or mandatory supervision shall prohibit
5 the releasee from using the Internet to:

6 (1) access pornographic material;

7 (2) access a commercial social networking site;

8 (3) communicate with one or more individuals for the
9 purpose of promoting sexual relations with an individual who is
10 younger than 18 years of age; or

11 (4) if the releasee is 18 years of age or older,
12 communicate with another individual the releasee knows is younger
13 than 18 years of age.

14 (b) In this section, "commercial social networking site"
15 has the meaning assigned by Article 62.0061, Code of Criminal
16 Procedure.

17 SECTION 10. Subchapter F, Chapter 61, Human Resources Code,
18 is amended by adding Section 61.08135 to read as follows:

19 Sec. 61.08135. PROHIBITIONS ON INTERNET ACCESS FOR CERTAIN
20 JUVENILE SEX OFFENDERS. (a) If the commission releases under
21 supervision a child who is assigned a numeric risk level of two or
22 three based on an assessment conducted under Article 62.007, Code
23 of Criminal Procedure, the commission shall prohibit the child from
24 using the Internet to:

25 (1) access pornographic material;

26 (2) access a commercial social networking site; or

27 (3) communicate with one or more individuals for the

1 purpose of promoting sexual relations with an individual who is
2 younger than 18 years of age.

3 (b) In this section, "commercial social networking site"
4 has the meaning assigned by Article 62.0061, Code of Criminal
5 Procedure.

6 SECTION 11. (a) The changes in law made by this Act in
7 adding Section 11(j), Article 42.12, Code of Criminal Procedure,
8 Section 54.0409(a), Family Code, Section 508.1861(a), Government
9 Code, and Section 61.08135(a), Human Resources Code, apply only to
10 a person who is placed on community supervision or juvenile
11 probation or released on parole or other supervision on or after the
12 effective date of this Act.

13 (b) The change in law made by this Act in amending Chapter
14 62, Code of Criminal Procedure, applies to a person who is subject
15 to registration under that chapter for an offense or conduct that
16 was committed before, on, or after the effective date of this Act.

17 SECTION 12. This Act takes effect September 1, 2009.