

By: Pena

H.B. No. 1239

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 three based on an assessment
12 conducted under Article 62.007, the court as a condition of
13 community supervision shall prohibit the defendant from using the
14 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) The court may modify at any time the condition
24 described by Subsection (j)(1)(D) if:

1 (A) the condition interferes with the
2 defendant's ability to attend school or become or remain employed
3 and consequently constitutes an undue hardship for the defendant;
4 or

5 (B) the defendant is the parent or guardian of an
6 individual who is younger than 18 years of age and the defendant is
7 not otherwise prohibited from communicating with that individual.

8 (3) In this subsection, "commercial social networking
9 site" has the meaning assigned by Article 62.0061.

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

12 (j) The department shall release all relevant information
13 described by Subsection (a) to the attorney general on the attorney
14 general's written request providing the department with a person's
15 name, driver's license number, personal identification certificate
16 number, license plate number, or Internet communication
17 identifier.

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

20 Art. 62.0061. REQUEST FOR INTERNET COMMUNICATION
21 IDENTIFIERS BY SOCIAL NETWORKING SITES AND INTERNET SERVICE
22 PROVIDERS. (a) The department shall establish a procedure by which
23 commercial social networking sites and Internet service providers
24 providing service in this state may request all Internet
25 communication identifiers belonging to a person listed in the
26 computerized central database. On receipt of a request submitted
27 under this article containing a person's name, driver's license

1 number, personal identification certificate number, or Internet
2 communication identifier, the department shall:

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

5 (2) provide the networking site or service provider
6 with all Internet communication identifiers listed for the person
7 in the computerized central database.

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

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

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

14 (c) A commercial social networking site or Internet service
15 provider that receives information under this article promptly
16 shall notify the department, the attorney general, and appropriate
17 local law enforcement authorities of any possible criminal activity
18 engaged in by a person with respect to whom information was provided
19 to the networking site or the service provider under Subsection
20 (a). The department, attorney general, and authorities shall
21 establish a uniform procedure for exchanging information regarding
22 any notification provided by a networking site or service provider
23 under this subsection.

24 (d) In this section, "commercial social networking site"
25 means any business, organization, or other similar entity operating
26 a website that permits persons to become registered users for the
27 purpose of establishing personal relationships with other users

1 through direct or real time communication with other users or the
2 creation of web pages or profiles available to the public or to
3 other users. The term does not include an electronic mail program
4 or a message board program.

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

8 (c) The registration form shall require:

9 (1) the person's full name, [~~each alias,~~] date of
10 birth, sex, race, height, weight, eye color, hair color, social
11 security number, driver's license number, shoe size, and home
12 address, and each alias, assumed name, nickname, or pseudonym,
13 including a screen name, used by the person;

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

17 (3) the type of offense the person was convicted of,
18 the age of the victim, the date of conviction, and the punishment
19 received;

20 (4) an indication as to whether the person is
21 discharged, paroled, or released on juvenile probation, community
22 supervision, or mandatory supervision;

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

25 (6) an indication as to whether the person is or will
26 be employed, carrying on a vocation, or a student at a particular
27 public or private institution of higher education in this state or

1 another state, and the name and address of that institution; ~~and~~

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

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

6 (j) The department by rule shall define:

7 (1) "screen name" for the purposes of Subsection
8 (c)(1); and

9 (2) "Internet communication identifier" for the
10 purposes of Subsection (c)(7).

11 SECTION 5. Chapter 54, Family Code, is amended by adding
12 Section 54.0409 to read as follows:

13 Sec. 54.0409. PROHIBITIONS ON INTERNET ACCESS FOR CERTAIN
14 JUVENILE SEX OFFENDERS. (a) If the juvenile court places on
15 probation under Section 54.04(d) a child who is assigned a numeric
16 risk level of three based on an assessment conducted under Article
17 62.007, Code of Criminal Procedure, in addition to other conditions
18 of probation, the court shall prohibit the child from using the
19 Internet to:

20 (1) access pornographic material;

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

22 (3) communicate with one or more individuals for the
23 purpose of promoting sexual relations with an individual who is
24 younger than 18 years of age.

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

1 SECTION 6. Subchapter F, Chapter 508, Government Code, is
2 amended by adding Section 508.1861 to read as follows:

3 Sec. 508.1861. PROHIBITIONS ON INTERNET ACCESS FOR CERTAIN
4 SEX OFFENDERS. (a) If the parole panel releases on parole or to
5 mandatory supervision a person who is serving a sentence for an
6 offense under Section 33.021, Penal Code, or who is assigned a
7 numeric risk level of three based on an assessment conducted under
8 Article 62.007, Code of Criminal Procedure, the parole panel as a
9 condition of parole or mandatory supervision shall prohibit the
10 releasee from using the Internet to:

11 (1) access pornographic material;

12 (2) access a commercial social networking site;

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

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

19 (b) The parole panel may modify at any time the condition
20 described by Subsection (a)(4) if:

21 (1) the condition interferes with the releasee's
22 ability to attend school or become or remain employed and
23 consequently constitutes an undue hardship for the releasee; or

24 (2) the releasee is the parent or guardian of an
25 individual who is younger than 18 years of age and the releasee is
26 not otherwise prohibited from communicating with that individual.

27 (c) In this section, "commercial social networking site"

1 has the meaning assigned by Article 62.0061, Code of Criminal
2 Procedure.

3 SECTION 7. Subchapter F, Chapter 61, Human Resources Code,
4 is amended by adding Section 61.08135 to read as follows:

5 Sec. 61.08135. PROHIBITIONS ON INTERNET ACCESS FOR CERTAIN
6 JUVENILE SEX OFFENDERS. (a) If the commission releases under
7 supervision a child who is assigned a numeric risk level of three
8 based on an assessment conducted under Article 62.007, Code of
9 Criminal Procedure, the commission shall prohibit the child from
10 using the Internet to:

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

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

19 SECTION 8. (a) The changes in law made by this Act in adding
20 Section 11(j), Article 42.12, Code of Criminal Procedure, Section
21 54.0409(a), Family Code, Section 508.1861(a), Government Code, and
22 Section 61.08135(a), Human Resources Code, apply only to a person
23 who is placed on community supervision or juvenile probation or
24 released on parole or other supervision on or after the effective
25 date of this Act.

26 (b) The change in law made by this Act in amending Chapter
27 62, Code of Criminal Procedure, applies to a person who is subject

H.B. No. 1239

1 to registration under that chapter for an offense or conduct that
2 was committed before, on, or after the effective date of this Act.

3 SECTION 9. This Act takes effect September 1, 2009.