

BILL ANALYSIS

C.S.H.B. 1552
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Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, local law enforcement agencies do not have an adequate mechanism for verifying the location of a person required to register as a sex offender. If a sex offender moves and does not update the registration to reflect the address change, the offender's location may be unknown to law enforcement. Placing an active electronic monitoring unit on certain high-risk sex offenders will provide local law enforcement agencies with sufficient means to verify the registrant's residence and location. Electronic verification of the highest risk offenders could decrease demands on the agencies in tracking these offenders and further enhance public safety, both of which are goals of C.S.H.B. 1552.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the public safety director of the Department of Public Safety in SECTION 3 of this bill.

ANALYSIS

C.S.H.B. 1552 amends the Code of Criminal Procedure to require the Department of Public Safety (DPS) to maintain an electronic mail report service to which a member of the house of representatives or senate of Texas may electronically subscribe to request for each zip code, any portion of which is located in the member's district, notification of the release from a penal institution or placement on deferred adjudication community supervision, community supervision, or juvenile probation of a person who is required to register as a sex offender and who expects to reside or resides in that zip code and any change in address of such a person. The bill requires the service, not less frequently than monthly, to deliver to the subscribing representative or senator a report containing that information. The bill requires DPS to include in the report any public information that is required to be included in the sex offender registration program central database.

C.S.H.B. 1552 requires the Texas Department of Criminal Justice (TDCJ) or the Texas Youth Commission (TYC), as applicable, in addition to assigning to a person who will be subject to sex offender registration a numeric risk level of one, two, or three and if certain criteria relating to the monitoring of certain high-risk registrants apply to the person on or after release, to determine the likelihood that the person will engage in sexually predatory conduct after being released from the institution. The bill requires the applicable agency to make the determination before the person is released using the dynamic risk assessment tool developed or adopted by the Council on Sex Offender Treatment and assign to the person before release a predatory risk level of low, medium, or high.

C.S.H.B. 1552 makes its provisions relating to the monitoring of certain high-risk registrants apply only to a person 18 years of age or older who is released from a penal institution, is required to register as a sex offender as the result of a reportable conviction or adjudication, has not been civilly committed, and is not under the supervision and control of TYC, a community supervision and corrections department, or the parole division of TDCJ. The bill requires a

person who is described by the bill's provisions relating to the monitoring of certain high-risk registrants and is assigned a predatory risk level of high to participate in a monitoring system program implemented by DPS. The bill provides that such a person's duty to participate in the program expires on the third anniversary of the date the person is released.

C.S.H.B. 1552 requires DPS, subject to the receipt of one or more grants awarded by the criminal justice division of the governor's office, to implement and coordinate a monitoring system program that tracks the location of such a person previously described and to ensure, not later than February 29, 2012, but subject to the receipt of one or more grants awarded by the criminal justice division of the governor's office, that the monitoring system becomes fully operational. The bill requires the program to require the following: DPS to provide to each local law enforcement authority designated as a person's primary registration authority monitoring system equipment that is sufficient to track the location of the person; each such local law enforcement authority to use that equipment to verify the authenticity of any geographically verifiable information contained in a person's registration form, including the person's residence; and the manufacturer or vendor of the equipment to provide training and technological support to the local law enforcement authority with respect to the equipment.

C.S.H.B. 1552 requires a monitoring system that is part of the program to track a person's location and periodically provide a cumulative report of the tracked person's location to DPS. The bill provides that the system is not required to be capable of tracking a person's location in real time or providing a real-time report of the person's location to DPS. The bill makes a person who is not indigent and who is required to participate in the program responsible for the cost of the system and requires the person to monthly pay to the person's primary registration authority and to DPS the amount that the authority or DPS, as applicable, determines is necessary to defray that entity's cost of operating the system with respect to the person during the preceding month. The bill requires DPS, in the manner prescribed by the criminal justice division of the governor's office, to report to the division the amount of any such money received by DPS from such a person paying for the system. The bill requires the division to treat that money as program income for DPS and to use the reported amounts to offset the amounts of grants awarded by the division to DPS. The bill requires the public safety director of DPS to adopt rules as necessary to implement and coordinate the monitoring system program. The bill exempts from its provisions a person who is released from a penal institution before the date that the monitoring system is implemented and becomes fully operational. The bill defines "sexually predatory conduct" and "monitoring system."

C.S.H.B. 1552 amends the Occupations Code to include as a required function of the dynamic risk assessment tool developed or adopted by the Council on Sex Offender Treatment the ability to determine the likelihood that a person who is confined in a penal institution and will be required to register as a sex offender on release from the institution will engage in sexually predatory conduct on release.

C.S.H.B. 1552 requires DPS to ensure that the electronic mail report service becomes fully functional and able to receive subscription requests and shall begin to respond appropriately to those requests not later than January 1, 2012. The bill requires DPS, not later than September 15, 2011, to issue a request for qualifications or proposal for the purchase of any monitoring system equipment necessary to operate the monitoring system program. The bill authorizes DPS to consider only those responses to the request for qualifications or proposal that are received from, and to only contract with, a manufacturer of the equipment. The bill requires the selection process through which DPS chooses a manufacturer with which to contract to include side-by-side test comparisons of all products being considered. The bill prohibits DPS, in awarding a contract, from giving greater weight to cost considerations than to considerations concerning the product test results, product reliability and functionality, and the protection of public safety.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1552 differs from the original by making the bill's provisions requiring the assigning of a predatory risk level and the electronic monitoring of certain high-risk persons subject to sex offender registration, released from a penal institution, and not under the supervision of certain entities apply only to a person 18 years of age or older, whereas the original does not specify the age of the person to which those provisions apply. The substitute omits a provision included in the original making such bill provisions apply to a person who, in addition to other requirements, is not under the supervision and control of a juvenile probation office or an agency or entity operating under contract with a juvenile probation office.

C.S.H.B. 1552 differs from the original, in a provision requiring the Department of Public Safety (DPS) to implement and coordinate a monitoring system program, by making such implementation subject to the receipt of one or more grants awarded by the criminal justice division of the governor's office, whereas the original makes such implementation subject to the receipt of an initial grant awarded from the criminal justice planning fund. The substitute contains a provision not included in the original requiring DPS to report to the criminal justice division the amount of any money received by DPS from monthly payments from monitoring system participants and requiring the division to treat that money as program income for DPS and to use the reported amounts to offset the amounts of grants awarded by the division to DPS.

C.S.H.B. 1552 contains a provision not included in the original requiring DPS, subject to the receipt of one or more grants awarded by the criminal justice division of the governor's office, to ensure that the monitoring system program becomes fully operational not later than February 29, 2012.

C.S.H.B. 1552 differs from the original in nonsubstantive ways.