

By: Madden

H.B. No. 1552

A BILL TO BE ENTITLED

AN ACT

relating to the monitoring of and the provision of certain information regarding certain high-risk sex offenders.

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

SECTION 1. Subchapter A, Chapter 62, Code of Criminal Procedure, is amended by adding Article 62.0052 to read as follows:

Art. 62.0052. ELECTRONIC MAIL REPORTS FOR STATE LEGISLATORS. (a) The department shall maintain an electronic mail report service to which a member of the house of representatives or the senate of this state may electronically subscribe.

(b) The electronic mail report service maintained under Subsection (a) must:

(1) allow a subscribing representative or senator to request for each zip code any portion of which is located in the representative's or senator's district notification of:

(A) the release from a penal institution or placement on deferred adjudication community supervision, community supervision, or juvenile probation of a person who expects to reside or resides in that zip code and is required to register under this chapter; and

(B) any change in address of a person who expects to reside or resides in that zip code and is required to register under this chapter; and

(2) not less frequently than monthly, deliver to the

1 subscribing representative or senator a report containing the
2 information described by Subdivision (1).

3 (c) The department must include any public information
4 described by Article 62.005 in an electronic mail report sent to a
5 subscribing representative or senator.

6 SECTION 2. Subchapter B, Chapter 62, Code of Criminal
7 Procedure, is amended by adding Article 62.0531 to read as follows:

8 Art. 62.0531. DETERMINATION OF PREDATORY RISK LEVEL. (a)
9 In this article, "sexually predatory conduct" means conduct that is
10 engaged in for the purpose of victimization and that:

11 (1) is directed toward a stranger, a person of casual
12 acquaintance with whom no substantial relationship exists, or a
13 person with whom a relationship has been established or promoted
14 for the purpose of victimization; and

15 (2) violates:

16 (A) Section 21.11(a)(1), 22.011, or 22.021,
17 Penal Code;

18 (B) Section 43.25, Penal Code;

19 (C) Section 20.04(a)(4), Penal Code, if the
20 conduct is committed with the intent to violate or abuse the victim
21 of the conduct sexually; or

22 (D) Section 30.02, Penal Code, if the conduct is
23 punishable under Subsection (d) of that section and is committed
24 with the intent to engage in conduct described by Paragraph (A) or
25 (C).

26 (b) In addition to assigning to a person a numeric risk
27 level of one, two, or three under Article 62.053(a), before a person

1 who will be subject to registration under this chapter and who will
2 be described by Article 62.063(b) on or after release is due to be
3 released from a penal institution, the Texas Department of Criminal
4 Justice or the Texas Youth Commission, as applicable, using the
5 dynamic risk assessment tool developed or adopted by the Council on
6 Sex Offender Treatment under Section 110.164, Occupations Code,
7 shall:

8 (1) determine the likelihood that the person will
9 engage in sexually predatory conduct after being released from the
10 institution; and

11 (2) assign to the person a predatory risk level of low,
12 medium, or high.

13 SECTION 3. Subchapter B, Chapter 62, Code of Criminal
14 Procedure, is amended by adding Article 62.063 to read as follows:

15 Art. 62.063. MONITORING OF CERTAIN HIGH-RISK REGISTRANTS.

16 (a) In this article, "monitoring system" means an electronic
17 monitoring service, global positioning satellite service, or other
18 appropriate technological service that is designed to track a
19 person's location.

20 (b) This article applies only to a person who is released
21 from a penal institution, who is required to register under this
22 chapter as the result of a reportable conviction or adjudication,
23 and who:

24 (1) is not under the supervision and control of:

25 (A) a juvenile probation office or an agency or
26 entity operating under contract with a juvenile probation office;

27 (B) the Texas Youth Commission;

1 (C) a community supervision and corrections
2 department; or

3 (D) the parole division of the Texas Department
4 of Criminal Justice; or

5 (2) has not been civilly committed under Chapter 841,
6 Health and Safety Code.

7 (c) A person described by Subsection (b) who, under Article
8 62.0531, is assigned a predatory risk level of high shall
9 participate in any monitoring system program implemented under
10 Subsection (d). A person's duty to participate in the program
11 expires on the third anniversary of the date the person is released
12 from the penal institution.

13 (d) Subject to the receipt of an initial grant awarded from
14 the criminal justice planning fund, the department shall implement
15 and coordinate a monitoring system program that tracks the location
16 of persons subject to this article. A monitoring system program
17 implemented under this subsection must require:

18 (1) the department to provide to each local law
19 enforcement authority designated as the primary registration
20 authority under this chapter for a person subject to this article
21 monitoring system equipment that is sufficient to track the
22 location of the person;

23 (2) each local law enforcement authority designated as
24 a person's primary registration authority under this chapter to
25 use the monitoring system equipment provided under Subdivision (1)
26 to verify the authenticity of any geographically verifiable
27 information contained in the registration form of a person subject

1 to this article, including the person's residence; and

2 (3) the manufacturer or vendor of the monitoring
3 system equipment provided to a local law enforcement authority
4 under Subdivision (1) to provide training and technological support
5 to the authority with respect to the equipment.

6 (e) A monitoring system that is part of a monitoring system
7 program described by Subsection (d) must track a person's location
8 and periodically provide a cumulative report of the tracked
9 person's location to the department. The monitoring system is not
10 required to be capable of tracking a person's location in real time
11 or providing a real-time report of the person's location to the
12 department.

13 (f) A person who is not indigent and who is required to
14 participate in a monitoring system program described by Subsection
15 (d) is responsible for the cost of the monitoring system and monthly
16 shall pay to the person's primary registration authority and to the
17 department the amount that the primary registration authority or
18 department, as applicable, determines is necessary to defray that
19 entity's cost of operating the system with respect to the person
20 during the preceding month.

21 (g) The director of the department shall adopt rules as
22 necessary to implement and coordinate the monitoring system program
23 described by Subsection (d).

24 (h) Notwithstanding any other provision of this article,
25 this article does not apply to a person who is released from a penal
26 institution before the date that the monitoring system program is
27 implemented and becomes fully operational.

SECTION 4. Section 110.164(a), Occupations Code, is amended to read as follows:

(a) The council shall develop or adopt a dynamic risk assessment tool to be used in determining the likelihood that a person who is confined in a penal institution and will become subject to Chapter 62, Code of Criminal Procedure, on being released from the institution will:

(1) engage in sexually predatory conduct; or

(2) otherwise commit an offense described by Article 62.001(5), Code of Criminal Procedure~~[, after being released from the institution]~~.

SECTION 5. The Department of Public Safety of the State of Texas shall have the electronic mail report service required to be maintained under Article 62.0052, Code of Criminal Procedure, as added by this Act, fully functional and able to receive subscription requests and respond appropriately to those requests not later than January 1, 2012.

SECTION 6. (a) Not later than September 15, 2011, the Department of Public Safety of the State of Texas shall issue a request for qualifications or proposal for the purchase of any monitoring system equipment necessary to operate the monitoring system program described by Article 62.063, Code of Criminal Procedure, as added by this Act. The department may consider only those responses to the request for qualifications or proposal that are received from, and may only contract with, a manufacturer of the monitoring system equipment.

(b) The selection process through which the Department of

1 Public Safety chooses a manufacturer with which to contract under
2 Subsection (a) of this section must include side-by-side test
3 comparisons of all products being considered. In awarding a
4 contract under Subsection (a) of this section, the department may
5 not give greater weight to cost considerations than to
6 considerations concerning the product test results, product
7 reliability and functionality, and the protection of public safety.

8 SECTION 7. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2011.