

By: Thompson

H.B. No. 3001

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the electronic monitoring of certain high-risk sex  
3 offenders; providing a penalty.

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

5 SECTION 1. Chapter 42, Code of Criminal Procedure, is  
6 amended by adding Article 42.0155 to read as follows:

7 Art. 42.0155. FINDING REGARDING HIGH-RISK SEX OFFENDER.

8 (a) This article applies only to an offense under:

9 (1) Section 21.02, 21.11(a)(1), 22.011, or 22.021,  
10 Penal Code;

11 (2) Section 43.25, Penal Code;

12 (3) Section 20.04(a)(4), Penal Code, if the conduct is  
13 committed with the intent to violate or abuse the victim of the  
14 conduct sexually; or

15 (4) Section 30.02, Penal Code, if the conduct is  
16 punishable under Subsection (d) of that section and is committed  
17 with the intent to commit an offense listed in Subdivision (1) or  
18 (2).

19 (b) In the trial of an offense to which this article  
20 applies, the court shall make an affirmative finding of fact and  
21 enter the affirmative finding in the judgment in the case if the  
22 court determines by a preponderance of the evidence that the  
23 defendant is highly likely to commit a subsequent offense to which  
24 this article applies during a time at which the defendant is not

1 confined in a penal institution.

2 SECTION 2. Title 1, Code of Criminal Procedure, is amended  
3 by adding Chapter 61A to read as follows:

4 CHAPTER 61A. ELECTRONIC MONITORING OF  
5 CERTAIN HIGH-RISK SEX OFFENDERS

6 Art. 61A.01. DEFINITIONS. In this chapter:

7 (1) "Department" means the Department of Public  
8 Safety.

9 (2) "Local law enforcement authority" has the meaning  
10 assigned by Article 62.001.

11 (3) "Monitoring system" means an electronic  
12 monitoring service, global positioning satellite service, or other  
13 appropriate technological service that is designed to track a  
14 person's location.

15 (4) "Penal institution" means a confinement facility  
16 operated by or under contract with any division of the Texas  
17 Department of Criminal Justice.

18 Art. 61A.02. MONITORING OF CERTAIN HIGH-RISK SEX OFFENDERS.

19 (a) This article applies only to a person who is discharged from a  
20 penal institution, who has been convicted of an offense for which  
21 the judgment in the case contains an affirmative finding under  
22 Article 42.0155, and who:

23 (1) is not under the supervision of the parole  
24 division of the Texas Department of Criminal Justice; or

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

27 (b) A person described by Subsection (a) shall participate

1 in any monitoring system program implemented under Subsection (c).

2 (c) The department shall implement and coordinate a  
3 monitoring system program that tracks the location of persons  
4 subject to this chapter. A monitoring system program implemented  
5 under this subsection must require:

6 (1) for each person subject to this chapter, the  
7 department to provide monitoring system equipment, sufficient to  
8 track the person's location, to the local law enforcement authority  
9 designated as the person's primary registration authority under  
10 Chapter 62;

11 (2) the local law enforcement authority designated as  
12 a person's primary registration authority under Chapter 62 to use  
13 the monitoring system equipment provided under Subdivision (1) to  
14 verify the authenticity of any geographically verifiable  
15 information, including residence, contained in a sex offender  
16 registration form submitted by the person to that authority under  
17 Article 62.051; and

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

22 (d) A monitoring system that is part of a monitoring system  
23 program described by Subsection (c) must track a person's location  
24 and periodically provide a cumulative report of the tracked  
25 person's location to the department. The monitoring system is not  
26 required to be capable of tracking a person's location in real time  
27 or providing a real-time report of the person's location to the

1 department.

2 (e) A person who is not indigent and who is required to  
3 participate in a monitoring system program described by Subsection  
4 (c) is responsible for the cost of the monitoring system and monthly  
5 shall pay to the person's primary registration authority and to the  
6 department the amount that the primary registration authority or  
7 department, as applicable, determines is necessary to defray that  
8 entity's cost of operating the system with respect to the person  
9 during the preceding month.

10 (f) The public safety director of the department shall adopt  
11 rules as necessary to implement and coordinate the monitoring  
12 system program described by Subsection (c).

13 Art. 61A.03. EXEMPTION FROM MONITORING FOR CERTAIN SEX  
14 OFFENDERS. (a) Beginning on the 10th anniversary of the person's  
15 discharge from a penal institution, completion of a parole period,  
16 or participation in an early release from supervision program under  
17 Section 508.155(c), Government Code, whichever is latest, but not  
18 more than once during each calendar year, a person required to  
19 register under this chapter may petition the court having  
20 jurisdiction over the case for an order exempting the person from  
21 participating in a monitoring system program under this chapter.

22 (b) After a hearing on the petition described by Subsection  
23 (a), the court may issue an order exempting the person from  
24 participating in a monitoring system program under this chapter if  
25 the court finds by a preponderance of the evidence that an exemption  
26 would not constitute a threat to public safety.

27 (c) An order exempting the person from participating in a

1 monitoring system program under this chapter does not expire,  
2 except that the court may withdraw the order if after the order is  
3 issued:

4 (1) the person is convicted of an offense listed in  
5 Article 62.001; or

6 (2) at a hearing, the court finds by a preponderance of  
7 the evidence that the continuation of an exemption order issued  
8 under Subsection (b) would constitute a threat to public safety.

9 Art. 61A.04. FAILURE TO COMPLY WITH MONITORING  
10 REQUIREMENTS. (a) A person commits an offense if the person who is  
11 subject to this chapter fails to participate in a monitoring system  
12 program implemented under this chapter.

13 (b) An offense under this article is a felony of the third  
14 degree.

15 Art. 61A.05. FUNDING. The department may solicit and  
16 accept a gift, grant, or donation from any source, including a  
17 foundation, private entity, governmental entity, or institution of  
18 higher education, to help fund the implementation of a monitoring  
19 system program under this chapter.

20 SECTION 3. (a) Not later than September 15, 2011, the  
21 Department of Public Safety of the State of Texas shall issue a  
22 request for qualifications or proposal for the purchase of any  
23 monitoring system equipment necessary to operate the monitoring  
24 system program described by Chapter 61A, Code of Criminal  
25 Procedure, as added by this Act. The department may consider only  
26 those responses to the request for qualifications or proposal that  
27 are received from, and may only contract with, a manufacturer of the

1 monitoring system equipment.

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

10 SECTION 4. (a) Article 42.0155, Code of Criminal  
11 Procedure, as added by this Act, applies only to a judgment of  
12 conviction entered for an offense committed on or after the  
13 effective date of this Act.

14 (b) The change in law made by this Act in adding Chapter 61A,  
15 Code of Criminal Procedure, applies only to an offense committed on  
16 or after the effective date of this Act.

17 (c) An offense committed before the effective date of this  
18 Act is covered by the law in effect when the offense was committed,  
19 and the former law is continued in effect for that purpose. For the  
20 purposes of this section, an offense was committed before the  
21 effective date of this Act if any element of the offense was  
22 committed before that date.

23 SECTION 5. This Act takes effect September 1, 2011.