

## **BILL ANALYSIS**

C.S.H.B. 1645  
By: Riddle  
Corrections  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

According to the National Center for Missing and Exploited Children, U.S. law enforcement agencies have seen a dramatic increase in cases of sexual exploitation of children since the 1990s, including an increase in the number of documented complaints of online enticement of children. The center has received millions of reports of suspected child sexual exploitation and of child pornography images. The Texas Council on Sex Offender Treatment studied these issues and found that computer technology presents complex challenges for society and allows criminals to prey on innocent victims. Interested parties have expressed concern that these issues are only growing. It is reported that a large percentage of those arrested for possession of child pornography used home computers to access child pornography and that in a significant number of child pornography investigations, the offenders possessed pornography and had sexually victimized children or attempted to sexually victimize children. The parties note that some recent court decisions have stated that probation and parole agencies cannot restrict a sex offender's computer use or Internet access as a condition of probation or parole. C.S.H.B. 1645 seeks to address these issues.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1645 amends the Code of Criminal Procedure and Government Code to include a person who is required to register as a sex offender and who is assigned a numeric risk level of two or three among the persons to whom prohibitions on Internet access for certain sex offenders apply. The bill requires a court that grants community supervision to a sex offender to whom those prohibitions apply, as a condition of community supervision and to ensure the defendant's compliance with the prohibitions, to require the defendant to submit to regular inspection or monitoring of each electronic device used by the defendant to access the Internet. The bill requires a parole panel that releases such a sex offender on parole or to mandatory supervision, as a condition of parole or mandatory supervision and to ensure the releasee's compliance with the prohibitions on Internet access for certain sex offenders, to require the releasee to submit to regular inspection or monitoring of each electronic device used by the releasee to access the Internet. The bill's provisions apply only to a person who is placed on community supervision or released on parole or to mandatory supervision on or after September 1, 2009. The bill requires the applicable court or parole panel to modify the conditions of supervision or parole as appropriate to conform to the bill's provisions for each sex offender with a numeric risk level of two or three who was placed on community supervision or released on parole or to mandatory supervision on or after September 1, 2009, and who has not yet completed the offender's period of supervision or parole.

**EFFECTIVE DATE**

September 1, 2013.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1645 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

**INTRODUCED**

SECTION 1. Section 13G, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

Sec. 13G. PROHIBITIONS ON INTERNET ACCESS FOR CERTAIN SEX OFFENDERS. (a) This section applies only to a person who is required to register as a sex offender under Chapter 62, by court order or otherwise, and:

(1) is convicted of or receives a grant of deferred adjudication community supervision for a violation of Section 21.11, 22.011(a)(2), 22.021(a)(1)(B), 33.021, or 43.25, Penal Code;

(2) used the Internet or any other type of electronic device used for Internet access to commit the offense or engage in the conduct for which the person is required to register under Chapter 62; or

(3) is assigned a numeric risk level of ~~two~~ **two** based on an assessment conducted under Article 62.007.

(b) If the court grants community supervision to a defendant described by Subsection (a), the court as a condition of community supervision shall:

(1) prohibit the defendant from using the Internet to:

(A) [~~4~~] access material that is obscene as defined by Section 43.21, Penal Code;

(B) [~~2~~] access a commercial social networking site, as defined by Article 62.0061(f);

(C) [~~3~~] communicate with any individual concerning sexual relations with an individual who is younger than 17 years of age; or

(D) [~~4~~] communicate with another individual the defendant knows is younger than 17 years of age; and

(2) to ensure the defendant's compliance with Subdivision (1), require the defendant to submit to regular inspection or

**HOUSE COMMITTEE SUBSTITUTE**

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(1) is convicted of or receives a grant of deferred adjudication community supervision for a violation of Section 21.11, 22.011(a)(2), 22.021(a)(1)(B), 33.021, or 43.25, Penal Code;

(2) used the Internet or any other type of electronic device used for Internet access to commit the offense or engage in the conduct for which the person is required to register under Chapter 62; or

(3) is assigned a numeric risk level of ~~two~~ **two** ~~or three~~ based on an assessment conducted under Article 62.007.

(b) If the court grants community supervision to a defendant described by Subsection (a), the court as a condition of community supervision shall:

(1) prohibit the defendant from using the Internet to:

(A) [~~4~~] access material that is obscene as defined by Section 43.21, Penal Code;

(B) [~~2~~] access a commercial social networking site, as defined by Article 62.0061(f);

(C) [~~3~~] communicate with any individual concerning sexual relations with an individual who is younger than 17 years of age; or

(D) [~~4~~] communicate with another individual the defendant knows is younger than 17 years of age; and

(2) to ensure the defendant's compliance with Subdivision (1), require the defendant to submit to regular inspection or

monitoring of each electronic device used by the defendant to access the Internet.

(c) The court may modify at any time the condition described by Subsection (b)(1)(D) [~~(b)(4)~~] if:

- (1) the condition interferes with the defendant's ability to attend school or become or remain employed and consequently constitutes an undue hardship for the defendant; or
- (2) the defendant is the parent or guardian of an individual who is younger than 17 years of age and the defendant is not otherwise prohibited from communicating with that individual.

SECTION 2. Section 508.1861, Government Code, is amended to read as follows:

Sec. 508.1861. PROHIBITIONS ON INTERNET ACCESS FOR CERTAIN SEX OFFENDERS. (a) This section applies only to a person who, on release, will be required to register as a sex offender under Chapter 62, Code of Criminal Procedure, by court order or otherwise, and:

- (1) is serving a sentence for an offense under Section 21.11, 22.011(a)(2), 22.021(a)(1)(B), 33.021, or 43.25, Penal Code;
- (2) used the Internet or any other type of electronic device used for Internet access to commit the offense or engage in the conduct for which the person is required to register under Chapter 62, Code of Criminal Procedure; or
- (3) is assigned a numeric risk level of ~~two~~ ~~three~~ based on an assessment conducted under Article 62.007, Code of Criminal Procedure.

(b) If the parole panel releases on parole or to mandatory supervision a person described by Subsection (a), the parole panel as a condition of parole or mandatory supervision shall:

- (1) prohibit the releasee from using the Internet to:
  - (A) [~~(1)~~] access material that is obscene as defined by Section 43.21, Penal Code;
  - (B) [~~(2)~~] access a commercial social networking site, as defined by Article 62.0061(f), Code of Criminal Procedure;
  - (C) [~~(3)~~] communicate with any individual concerning sexual relations with an

monitoring of each electronic device used by the defendant to access the Internet.

(c) The court may modify at any time the condition described by Subsection (b)(1)(D) [~~(b)(4)~~] if:

- (1) the condition interferes with the defendant's ability to attend school or become or remain employed and consequently constitutes an undue hardship for the defendant; or
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- (1) is serving a sentence for an offense under Section 21.11, 22.011(a)(2), 22.021(a)(1)(B), 33.021, or 43.25, Penal Code;
- (2) used the Internet or any other type of electronic device used for Internet access to commit the offense or engage in the conduct for which the person is required to register under Chapter 62, Code of Criminal Procedure; or
- (3) is assigned a numeric risk level of ~~two~~ ~~or three~~ based on an assessment conducted under Article 62.007, Code of Criminal Procedure.

(b) If the parole panel releases on parole or to mandatory supervision a person described by Subsection (a), the parole panel as a condition of parole or mandatory supervision shall:

- (1) prohibit the releasee from using the Internet to:
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  - (C) [~~(3)~~] communicate with any individual concerning sexual relations with an

individual who is younger than 17 years of age; or

(D) [(4)] communicate with another individual the releasee knows is younger than 17 years of age; and

(2) to ensure the releasee's compliance with Subdivision (1), require the releasee to submit to regular inspection or monitoring of each electronic device used by the releasee to access the Internet.

(c) The parole panel may modify at any time the condition described by Subsection (b)(1)(D) [(b)(4)] if:

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

(2) the releasee is the parent or guardian of an individual who is younger than 17 years of age and the releasee is not otherwise prohibited from communicating with that individual.

SECTION 3. (a) Section 13G, Article 42.12, Code of Criminal Procedure, as amended by this Act, and Section 508.1861, Government Code, as amended by this Act, apply only to a person who is placed on community supervision or released on parole or to mandatory supervision on or after September 1, 2009. A person who is placed on community supervision or released on parole or to mandatory supervision before September 1, 2009, is governed by the law in effect on the date the person was placed on community supervision or released on parole or to mandatory supervision, and the former law is continued in effect for that purpose.

(b) The applicable court or parole panel shall modify the conditions of supervision or parole as appropriate to conform to the requirements of Section 13G, Article 42.12, Code of Criminal Procedure, as amended by this Act, and Section 508.1861, Government Code, as amended by this Act, for each sex offender with a numeric risk level of two or three who was placed on community supervision or released on parole or to mandatory supervision on or after September 1, 2009, and who has not yet completed the offender's period of supervision or parole.

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(D) [(4)] communicate with another individual the releasee knows is younger than 17 years of age; and

(2) to ensure the releasee's compliance with Subdivision (1), require the releasee to submit to regular inspection or monitoring of each electronic device used by the releasee to access the Internet.

(c) The parole panel may modify at any time the condition described by Subsection (b)(1)(D) [(b)(4)] if:

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

(2) the releasee is the parent or guardian of an individual who is younger than 17 years of age and the releasee is not otherwise prohibited from communicating with that individual.

SECTION 3. Same as introduced version.

SECTION 4. This Act takes effect  
September 1, 2013.

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