

By: Clardy

H.B. No. 1302

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of a sentence of life without parole on certain repeat sex offenders and to certain restrictions on employment for sex offenders.

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

SECTION 1. Article 62.053(a), Code of Criminal Procedure, is amended to read as follows:

(a) Before a person who will be subject to registration under this chapter is due to be released from a penal institution, the Texas Department of Criminal Justice or the Texas Juvenile Justice Department ~~[Youth Commission]~~ shall determine the person's level of risk to the community using the sex offender screening tool developed or selected under Article 62.007 and assign to the person a numeric risk level of one, two, or three. Before releasing the person, an official of the penal institution shall:

(1) inform the person that:

(A) not later than the later of the seventh day after the date on which the person is released or after the date on which the person moves from a previous residence to a new residence in this state or not later than the first date the applicable local law enforcement authority by policy allows the person to register or verify registration, the person must register or verify registration with the local law enforcement authority in the municipality or county in which the person intends to reside;

1 (B) not later than the seventh day after the date
2 on which the person is released or the date on which the person
3 moves from a previous residence to a new residence in this state,
4 the person must, if the person has not moved to an intended
5 residence, report to the applicable entity or entities as required
6 by Article 62.051(h) or (j) or 62.055(e);

7 (C) not later than the seventh day before the
8 date on which the person moves to a new residence in this state or
9 another state, the person must report in person to the local law
10 enforcement authority designated as the person's primary
11 registration authority by the department and to the juvenile
12 probation officer, community supervision and corrections
13 department officer, or parole officer supervising the person;

14 (D) not later than the 10th day after the date on
15 which the person arrives in another state in which the person
16 intends to reside, the person must register with the law
17 enforcement agency that is identified by the department as the
18 agency designated by that state to receive registration
19 information, if the other state has a registration requirement for
20 sex offenders;

21 (E) not later than the 30th day after the date on
22 which the person is released, the person must apply to the
23 department in person for the issuance of an original or renewal
24 driver's license or personal identification certificate and a
25 failure to apply to the department as required by this paragraph
26 results in the automatic revocation of any driver's license or
27 personal identification certificate issued by the department to the

1 person; ~~and~~

2 (F) the person must notify appropriate entities
3 of any change in status as described by Article 62.057; and

4 (G) certain types of employment are prohibited
5 under Article 62.063 for a person with a reportable conviction or
6 adjudication occurring on or after September 1, 2013;

7 (2) require the person to sign a written statement
8 that the person was informed of the person's duties as described by
9 Subdivision (1) or Subsection (g) or, if the person refuses to sign
10 the statement, certify that the person was so informed;

11 (3) obtain the address or, if applicable, a detailed
12 description of each geographical location where the person expects
13 to reside on the person's release and other registration
14 information, including a photograph and complete set of
15 fingerprints; and

16 (4) complete the registration form for the person.

17 SECTION 2. Article 62.058, Code of Criminal Procedure, is
18 amended by adding Subsection (f) to read as follows:

19 (f) A local law enforcement authority that provides to a
20 person subject to the prohibitions described by Article 62.063 a
21 registration form for verification as required by this chapter
22 shall include with the form a statement summarizing the types of
23 employment that are prohibited for that person.

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

26 Art. 62.063. PROHIBITED EMPLOYMENT. (a) In this section:

27 (1) "Amusement ride" has the meaning assigned by

1 Section 2151.002, Occupations Code.

2 (2) "Bus" has the meaning assigned by Section 541.201,
3 Transportation Code.

4 (b) A person subject to registration under this chapter may
5 not, for compensation:

6 (1) operate or offer to operate a bus;

7 (2) provide or offer to provide a passenger taxicab or
8 limousine transportation service; or

9 (3) provide or offer to provide any type of service in
10 the residence of another person.

11 (c) A person subject to registration under this chapter
12 because of one or more reportable convictions or adjudications for
13 an offense or conduct involving a victim younger than 17 years of
14 age may not operate or offer to operate any amusement ride.

15 SECTION 4. Sections 12.42(b) and (d), Penal Code, as
16 amended by Chapters 834 (H.B. 3384) and 1119 (H.B. 3), Acts of the
17 82nd Legislature, Regular Session, 2011, are reenacted to read as
18 follows:

19 (b) Except as provided by Subsection (c)(2) or (c)(4), if it
20 is shown on the trial of a felony of the second degree that the
21 defendant has previously been finally convicted of a felony other
22 than a state jail felony punishable under Section 12.35(a), on
23 conviction the defendant shall be punished for a felony of the first
24 degree.

25 (d) Except as provided by Subsection (c)(2) or (c)(4), if it
26 is shown on the trial of a felony offense other than a state jail
27 felony punishable under Section 12.35(a) that the defendant has

1 previously been finally convicted of two felony offenses, and the
2 second previous felony conviction is for an offense that occurred
3 subsequent to the first previous conviction having become final, on
4 conviction the defendant shall be punished by imprisonment in the
5 Texas Department of Criminal Justice for life, or for any term of
6 not more than 99 years or less than 25 years. A previous conviction
7 for a state jail felony punishable under Section 12.35(a) may not be
8 used for enhancement purposes under this subsection.

9 SECTION 5. Section 12.42(c)(4), Penal Code, as amended by
10 Chapters 122 (H.B. 3000) and 1119 (H.B. 3), Acts of the 82nd
11 Legislature, Regular Session, 2011, is reenacted and amended to
12 read as follows:

13 (4) Notwithstanding Subdivision (1) or (2), and except
14 as provided by Subdivision (3) for the trial of an offense under
15 Section 22.021 as described by that subdivision, a defendant shall
16 be punished by imprisonment in the Texas Department of Criminal
17 Justice for life without parole if it is shown on the trial of an
18 offense under Section 20A.03 or of a sexually violent ~~[an]~~ offense
19 ~~[under Section 21.02 or 22.021]~~ that the defendant has previously
20 been finally convicted of:

21 (A) an offense under Section 20A.03 or of a
22 sexually violent ~~[an]~~ offense ~~[under Section 21.02 or 22.021]~~; or

23 (B) an offense that was committed under the laws
24 of another state and that contains elements that are substantially
25 similar to the elements of an offense under Section 20A.03 or of a
26 sexually violent ~~[an]~~ offense ~~[under Section 21.02 or 22.021]~~.

27 SECTION 6. Section 12.42, Code of Criminal Procedure, is

amended by adding Subsection (h) to read as follows:

(h) In this section, "sexually violent offense" means:

(1) an offense under Section 21.02 (Continuous sexual abuse of young child or children) or 22.021 (Aggravated sexual assault); or

(2) any of the following offenses committed by a person 17 years of age or older against a child younger than 13 years of age:

(A) an offense under Section 20A.02(a)(7) or (8) (Sex trafficking of a child), 21.11(a)(1) (Indecency with a child), 22.011 (Sexual assault), or 43.25 (Sexual performance by a child);

(B) an offense under Section 20.04(a)(4) (Aggravated kidnapping), if the defendant committed the offense with intent to violate or abuse the victim sexually;

(C) an offense under Section 30.02 (Burglary), if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with intent to commit an offense under Section 21.11(a)(2) (Indecency with a child), 25.02 (Prohibited sexual conduct), or a felony listed in Paragraph (A) or (B) of this subsection; or

(D) an offense under the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice, if the offense contains elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), or (C).

SECTION 7. (a) The change in law made by this Act in adding Article 62.063, Code of Criminal Procedure, applies only to a

1 person who is required to register under Chapter 62, Code of
2 Criminal Procedure, on the basis of a conviction or adjudication
3 that occurs on or after the effective date of this Act. A person who
4 is required to register under Chapter 62, Code of Criminal
5 Procedure, solely on the basis of a conviction or adjudication that
6 occurs before the effective date of this Act is governed by the law
7 in effect when the conviction or adjudication occurred, and the
8 former law is continued in effect for that purpose.

9 (b) The change in law made by this Act in amending Section
10 12.42, Penal Code, applies only to an offense committed on or after
11 the effective date of this Act. An offense committed before the
12 effective date of this Act is governed by the law in effect on the
13 date the offense was committed, and the former law is continued in
14 effect for that purpose. For purposes of this section, an offense
15 was committed before the effective date of this Act if any element
16 of the offense occurred before that date.

17 SECTION 8. To the extent of any conflict, this Act prevails
18 over another Act of the 83rd Legislature, Regular Session, 2013,
19 relating to nonsubstantive additions to and corrections in enacted
20 codes.

21 SECTION 9. This Act takes effect September 1, 2013.