

House Bill 1302
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. This Act shall be known as Justin's Law.

SECTION 2. Article 42.015, Code of Criminal Procedure, is amended to read as follows:

Art. 42.015. FINDING OF AGE OF VICTIM. (a) In the trial of an offense under Section 20.02, 20.03, or 20.04, Penal Code, or an attempt, conspiracy, or solicitation to commit one of those offenses, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that the victim or intended victim was younger than 17 years of age at the time of the offense.

(b) In the trial of a sexually violent offense, as defined by Article 62.001, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that the victim or intended victim was younger than 14 years of age at the time of the offense.

SECTION 3. Section 5(e), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(e)(1) If a judge places on community supervision under this section a defendant charged with an offense under Section 20.02, 20.03, or 20.04, Penal Code, or an attempt, conspiracy, or solicitation to commit one of those offenses, the judge shall make an affirmative finding of fact and file a statement of that affirmative finding with the papers in the case if the judge determines that the victim or intended victim was younger than 17 years of age at the time of the offense.

(2) If a judge places on community supervision under this section a defendant charged with a sexually violent offense, as

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SECTION 1. Same as House version.

SECTION 2. Same as House version.

SECTION 3. Same as House version.

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defined by Article 62.001, the judge shall make an affirmative finding of fact and file a statement of that affirmative finding with the papers in the case if the judge determines that the victim or intended victim was younger than 14 years of age at the time of the offense.

SECTION 4. 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;

(B) not later than the seventh day after the date on which the person is released or the date on which the person moves from a previous residence to a new residence in this state, the person must, if the person has not moved to an intended residence, report to the applicable entity or entities as required

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by Article 62.051(h) or (j) or 62.055(e);

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

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

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

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

(G) certain types of employment are prohibited under Article 62.063 for a person with a reportable conviction or adjudication for a sexually violent offense involving a victim younger than 14 years of age occurring on or after September 1, 2013;

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

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sign the statement, certify that the person was so informed;
(3) obtain the address or, if applicable, a detailed description of each geographical location where the person expects to reside on the person's release and other registration information, including a photograph and complete set of fingerprints; and
(4) complete the registration form for the person.

SECTION 5. Article 62.058, Code of Criminal Procedure, is amended by adding Subsection (f) to read as follows:

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

SECTION 6. Subchapter B, Chapter 62, Code of Criminal Procedure, is amended by adding Article 62.063 to read as follows:

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

(1) "Amusement ride" has the meaning assigned by Section 2151.002, Occupations Code.

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

(b) A person subject to registration under this chapter because of a reportable conviction or adjudication for which an affirmative finding is entered under Article 42.015(b) or Section 5(e)(2), Article 42.12, as appropriate, may not, for compensation:

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SECTION 6. Subchapter B, Chapter 62, Code of Criminal Procedure, is amended by adding Article 62.063 to read as follows:

Art. 62.063. PROHIBITED EMPLOYMENT. (a) In this article: [FA1(1)]

(1) "Amusement ride" has the meaning assigned by Section 2151.002, Occupations Code.

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

(b) A person subject to registration under this chapter because of a reportable conviction or adjudication for which an affirmative finding is entered under Article 42.015(b) or Section 5(e)(2), Article 42.12, as appropriate, may not, for compensation:

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- (1) operate or offer to operate a bus;
- (2) provide or offer to provide a passenger taxicab or limousine transportation service;
- (3) provide or offer to provide any type of service in the residence of another person unless the provision of service will be supervised; or
- (4) operate or offer to operate any amusement ride.

SECTION 7. Sections 12.42(b) and (d), Penal Code, as amended by Chapters 834 (H.B. 3384) and 1119 (H.B. 3), Acts of the 82nd Legislature, Regular Session, 2011, are reenacted to read as follows:

- (b) Except as provided by Subsection (c)(2) or (c)(4), if it is shown on the trial of a felony of the second degree that the defendant has previously been finally convicted of a felony other than a state jail felony punishable under Section 12.35(a), on conviction the defendant shall be punished for a felony of the first degree.
- (d) Except as provided by Subsection (c)(2) or (c)(4), if it is shown on the trial of a felony offense other than a state jail felony punishable under Section 12.35(a) that the defendant has previously been finally convicted of two felony offenses, and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction having become final, on conviction the defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years. A previous conviction for a state jail felony punishable under Section 12.35(a) may not be used for enhancement purposes under this subsection.

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- (1) operate or offer to operate a bus;
- (2) provide or offer to provide a passenger taxicab or limousine transportation service;
- (3) provide or offer to provide any type of service in the residence of another person unless the provision of service will be supervised; or
- (4) operate or offer to operate any amusement ride.

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SECTION 8. Section 12.42(c)(4), Penal Code, as amended by Chapters 122 (H.B. 3000) and 1119 (H.B. 3), Acts of the 82nd Legislature, Regular Session, 2011, is reenacted and amended to read as follows:

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

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

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

SECTION 9. Section 12.42, Penal Code, is amended by adding Subsection (h) to read as follows:

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

(1) defined by Article 62.001, Code of Criminal Procedure; and

(2) for which an affirmative finding has been entered under Article 42.015(b) or Section 5(e)(2), Article 42.12, Code of Criminal Procedure, for any offense other than an offense under Section 21.02 (Continuous sexual abuse of young child or children) or 22.021 (Aggravated sexual assault).

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SECTION 8. Section 12.42(c)(4), Penal Code, as amended by Chapters 122 (H.B. 3000) and 1119 (H.B. 3), Acts of the 82nd Legislature, Regular Session, 2011, is reenacted and amended to read as follows:

(4) Notwithstanding Subdivision (1) or (2), and except as provided by Subdivision (3) for the trial of an offense under Section 22.021 as described by that subdivision, a defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life without parole if it is shown on the trial of an offense under Section 20A.03 or of a sexually violent offense, committed by the defendant on or after the defendant's 18th birthday, ~~[21.02 or 22.021]~~ that the defendant has previously been finally convicted of: [FA1(2)]

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

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

SECTION 9. Section 12.42, Penal Code, is amended by adding Subsection (h) to read as follows:

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

(1) described by Article 62.001(6), Code of Criminal Procedure; and [FA1(3)]

(2) for which an affirmative finding has been entered under Article 42.015(b) or Section 5(e)(2), Article 42.12, Code of Criminal Procedure, for an offense other than an offense under Section 21.02 or 22.021. [FA1(4)]

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SECTION 10. (a)(1) The change in law made by this Act in adding Article 62.063, Code of Criminal Procedure, applies only to a person who is required to register under Chapter 62, Code of Criminal Procedure, on the basis of a conviction or adjudication for an offense described by that article and for which an affirmative finding under Article 42.015(b) or Section 5(e)(2), Article 42.12, Code of Criminal Procedure, as added by this Act, is made on or after the effective date of this Act.

(2) Article 42.015(b), Code of Criminal Procedure, and Section 5(e)(2), Code of Criminal Procedure, as added by this Act, apply, as appropriate, only to a trial commenced on or after the effective date of this Act or an order of deferred adjudication entered on or after the effective date of this Act.

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

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

SECTION 10. Same as House version.

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SECTION 11. To the extent of any conflict, this Act prevails over another Act of the 83rd Legislature, Regular Session, 2013, relating to nonsubstantive additions to and corrections in enacted codes.	SECTION 11. Same as House version.	
SECTION 12. This Act takes effect September 1, 2013.	SECTION 12. Same as House version.	