

BILL ANALYSIS

C.S.H.B. 404
By: Sheffield
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The goal of the prohibition against an individual who is required to register as a sex offender engaging in certain types of employment is to prevent such an individual from coming into contact with a child. However, interested parties express concern that this prohibition does not extend to volunteer activities in which a sex offender may come into contact with a child. C.S.H.B. 404 seeks to address this concern.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 404 amends the Code of Criminal Procedure to expand the list of prohibited activities for a person subject to sex offender registration because of a reportable conviction or adjudication for which an affirmative finding that the victim or intended victim was younger than 14 years of age at the time of the offense is entered to include, regardless of any compensation received, supervising or participating in any program that includes as participants or recipients persons who are 17 years of age or younger and providing or offering to provide any type of service at a premises where children commonly gather, including a school, day-care facility, playground, public or private youth center, public swimming pool, video arcade facility, or restaurant or other business that is promoted or advertised as being of particular interest to children. The bill requires an official of a penal institution to inform a person who is due to be released from the penal institution and subject to sex offender registration because of a reportable conviction or adjudication for a sexually violent offense involving a victim younger than 14 years of age that such employment and volunteer activity are prohibited.

C.S.H.B. 404 requires the statement accompanying the sex offender registration form provided by a local law enforcement registration authority to a person subject to the bill's prohibitions to summarize the types of volunteer activity that are prohibited for that person, in addition to the types of employment that are prohibited.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 404 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Article 62.063, Code of Criminal Procedure, is amended to read as follows:

Art. 62.063. PROHIBITED EMPLOYMENT AND VOLUNTEER ACTIVITY. (a) In this article:

(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.

(3) "Playground," "premises," "school," "video arcade facility," and "youth center" have the meanings assigned by Section 481.134, Health and Safety Code.

(b) A person whose duty to register ~~[subject to registration]~~ under this chapter expires under Article 62.101(a) ~~[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:

(1) ~~[;]~~ for compensation:

~~(A) [(1)]~~ operate or offer to operate a bus;

~~(B) [(2)]~~ provide or offer to provide a passenger taxicab or limousine transportation service;

~~(C) [(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

~~(D) [(4)]~~ operate or offer to operate any amusement ride; or

(2) regardless of any compensation received:

(A) supervise or participate in any program that includes as participants or recipients persons who are 17 years of age or younger and that regularly provides athletic, civic, or cultural activities; or

(B) provide or offer to provide any type of service at a premises where children commonly gather, including a school, day-care facility, playground, public or private youth center, public swimming pool, or video arcade facility.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Article 62.063, Code of Criminal Procedure, is amended to read as follows:

Art. 62.063. PROHIBITED EMPLOYMENT AND VOLUNTEER ACTIVITY. (a) In this article:

(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.

(3) "Playground," "premises," "school," "video arcade facility," and "youth center" have the meanings assigned by Section 481.134, Health and Safety 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:

(1) ~~[;]~~ for compensation:

~~(A) [(1)]~~ operate or offer to operate a bus;

~~(B) [(2)]~~ provide or offer to provide a passenger taxicab or limousine transportation service;

~~(C) [(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

~~(D) [(4)]~~ operate or offer to operate any amusement ride; or

(2) regardless of any compensation received:

(A) supervise or participate in any program that includes as participants or recipients persons who are 17 years of age or younger; or

(B) provide or offer to provide any type of service at a premises where children commonly gather, including a school, day-care facility, playground, public or private youth center, public swimming pool, video arcade facility, or restaurant or other business that is promoted or advertised as being of particular interest to children.

SECTION 2. 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 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 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;

SECTION 2. 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 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 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;

(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 and occurring on or after September 1, 2013, but before September 1, 2015; and

(H) if the person's duty to register under this chapter expires under Article 62.101(a), certain types of employment and certain types of volunteer activity are prohibited under Article 62.063 for a person with a reportable conviction or adjudication for an offense occurring on or after September 1, 2015;

(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 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 3. Article 62.058(f), Code of Criminal Procedure, is amended.

SECTION 4. (a) The change in law made by this Act in amending 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 committed on or after the

(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;

(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(b)(1) ~~[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 and occurring on or after September 1, 2013, but before September 1, 2015; and

(H) certain types of employment and certain types of volunteer activity are prohibited under Article 62.063(b)(1) or (2) for a person with a reportable conviction or adjudication for a sexually violent offense involving a victim younger than 14 years of age and occurring on or after September 1, 2015;

(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 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 3. Same as introduced version.

SECTION 4. Same as introduced version.

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.

(b) 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.

SECTION 5. This Act takes effect September 1, 2015.

SECTION 5. Same as introduced version.