

BILL ANALYSIS

C.S.H.B. 1872
By: Murphy
Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties are concerned that certain municipalities may not have the tools necessary to adequately regulate where registered sex offenders may reside, potentially making such municipalities more susceptible to an influx of sex offenders. C.S.H.B. 1872 seeks to address this issue.

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. 1872 amends the Local Government Code to authorize the governing body of a general-law municipality to restrict by ordinance a registered sex offender from going in, on, or within a specified distance, but not more than 1,000 feet, of a child safety zone in the municipality, excluding a church. The bill establishes an affirmative defense to prosecution for an offense under the ordinance that the registered sex offender was in, on, or within a specified distance of a child safety zone for a legitimate purpose, including transportation of a child that the registered sex offender is legally permitted to be with, transportation to and from work, and other work-related purposes. The bill authorizes the ordinance to establish procedures for a registered sex offender to apply for and receive an exemption from the ordinance. The bill requires the ordinance to exempt a registered sex offender who established residency in a residence located within the specified distance of a child safety zone before the date the ordinance is adopted and limits the applicability of such an exemption to areas necessary for the registered sex offender to have access to and to live in the residence and to the period the registered sex offender maintains residency in the residence.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1872 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. Subchapter Z, Chapter 341, Local Government Code, is amended by adding Section 341.906 to read as follows:

Sec. 341.906. LIMITATIONS ON REGISTERED SEX OFFENDERS IN CERTAIN GENERAL-LAW MUNICIPALITIES. (a) In this section:

(1) "Child safety zone" means premises where children commonly gather. The term includes a school, day-care facility, playground, public or private youth center, public swimming pool, video arcade facility, or other facility that regularly holds events primarily for children.

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

(b) This section applies only to a general-law municipality that is adjacent to a home-rule municipality.

(c) To provide for the public safety, the governing body of a general-law municipality to which this section applies by ordinance may restrict an individual who is required to register as a sex offender under Chapter 62, Code of Criminal Procedure, from going in, on, or within a specified distance of a child safety zone in the municipality.

(d) The ordinance may establish a distance requirement described by Subsection (c) at any distance of not more than 1,000 feet.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter Z, Chapter 341, Local Government Code, is amended by adding Section 341.906 to read as follows:

Sec. 341.906. LIMITATIONS ON REGISTERED SEX OFFENDERS IN GENERAL-LAW MUNICIPALITIES. (a) In this section:

(1) "Child safety zone" means premises where children commonly gather. The term includes a school, day-care facility, playground, public or private youth center, public swimming pool, video arcade facility, or other facility that regularly holds events primarily for children. The term does not include a church, as defined by Section 544.251, Insurance Code.

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

(3) "Registered sex offender" means an individual who is required to register as a sex offender under Chapter 62, Code of Criminal Procedure.

(b) To provide for the public safety, the governing body of a general-law municipality by ordinance may restrict a registered sex offender from going in, on, or within a specified distance of a child safety zone in the municipality.

(c) It is an affirmative defense to prosecution of an offense under the ordinance that the registered sex offender was in, on, or within a specified distance of a child safety zone for a legitimate purpose, including transportation of a child that the registered sex offender is legally permitted to be with, transportation to and from work, and other work-related purposes.

(d) The ordinance may establish a distance requirement described by Subsection (b) at any distance of not more than 1,000 feet.

(e) The ordinance may establish procedures for a registered sex offender to apply for and receive an exemption from the ordinance.

(f) The ordinance must exempt a registered sex offender who established residency in a

residence located within the specified distance of a child safety zone before the date the ordinance is adopted. The exemption must apply only to:
(1) areas necessary for the registered sex offender to have access to and to live in the residence; and
(2) the period the registered sex offender maintains residency in the residence.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

SECTION 2. Same as introduced version.