

SUBJECT: Assignment of risk levels, public notification for some sex offenders

COMMITTEE: Corrections — favorable, without amendment

VOTE: 7 ayes — Haggerty, Staples, Allen, Culberson, Ellis, Gray, Lengefeld

0 nays

2 absent — Farrar, Longoria

SENATE VOTE: On final passage, May 7 — voice vote

WITNESSES: For — None

Against — None

On — Wayne Scott, Texas Department of Criminal Justice

BACKGROUND: The state's sex offender registration and notification law requires some sex offenders to register with local law enforcement authorities and requires public notification about the whereabouts of some sex offenders.

Offenders are required to register with local law enforcement authorities, and criminal justice officials are required to notify local law enforcement authorities when a sex offender is planning on moving to their jurisdiction. If local law enforcement authorities verify that a sex offender's victim was younger than 17, and the offender was not a juvenile or the conviction was not a deferred adjudication for incest, they must immediately publish in a local newspaper a notice of the offender's whereabouts. The notice, in both English and Spanish, must be republished a week later. The notice must identify the offender by age and gender, briefly describe of the offense, and list the city, street, and zip code where the person intends to reside.

If a victim is a child younger than 17, regardless of the basis for registration, law enforcement authorities are required immediately to provide notice of the offender by mail to the superintendent of the public school district and any private school administrators in the public school district in which the offender is going to live.

DIGEST: SB 1650 would require that sex offenders who are subject to the state's sex offender registration law be assigned risk assessment levels and that in some cases to notify the public of the risk levels.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. The bill is contingent upon a specific appropriation for its implementation being included in the general appropriations act.

Assigning risk levels. TDCJ would have to establish a risk assessment review committee of at least five state employees, all of whom would serve on the review committee in addition to their regular duties. To the extent feasible, the committee would have to include at least one person with experience in law enforcement, one with experience working with juvenile sex offenders, one with experience as a sex offender treatment provider, and one with experience working with victims of sex offenses.

The committee would have to develop or select a tool from among existing sex offender screening tools to use to determine offenders' risk levels. The tool would have to use an objective point system under which a person would be assigned a number of points for various factors, such as the nature of the offense, the age of the victim, and previous offenses. The tool would have to be adopted by December 1, 1999, and be able to be adapted to the following general guidelines:

- ! Level One: a designated number of points or higher on the sex offender screening tool *and* a basis for concern that the person poses a serious danger to the community or will continue to engage in criminal sexual conduct;
- ! Level Two: a designated number of points or higher on the sex offender screening tool *or* a basis for concern that the person poses a serious danger to the community or will continue to engage in criminal sexual conduct; and
- ! Level Three: no basis for concern that the person poses a serious danger to the community or will continue to engage in criminal sexual conduct.

A risk level of three could be assigned only if persons met the certain criteria and were moving to a new city or county. Upon notice that an offender was going to move, local law enforcement authorities would have to notify the

risk assessment committee. If the person met the following criteria, the committee would have to assign them a risk level of three:

- ! the person was originally assigned a numeric risk level of two;
- ! the committee considered any information available to the committee that was used by the committee or the court at the time the person was assigned their original risk level; and
- ! the basis on which the person was subject to registration was a conviction or grant of deferred adjudication for indecency with a child or sexual assault of a child committed against a victim who was of the opposite sex and was not more than five years younger than the offender.

The committee would have to send a notice of the risk level to DPS and the local law enforcement authorities.

Before a person subject to the state's sex offender registration law was released from a penal institution, the risk assessment review committee would be required to determine the person's level of risk to the community and assign the person a numeric risk level of one or two.

For persons subject to the registration requirements who received deferred adjudication, the court would have to determine the person's risk level. Community supervision and corrections (probation) department personnel, or in some cases persons designated by the court, who were conducting the pre-release notification would have to obtain the risk level from the court.

Notification of risk level. The risk level would have to be included in the offender's registration form that TDCJ currently is required to send to local law enforcement agencies when an offender is released.

If newspaper publication of the whereabouts of sex offenders was required, the publication would have to include the person's numeric risk level and the guidelines used to determine a risk level.

DPS would have to inform local law enforcement authorities of a person's risk level when they moved. Having a risk level of three would be added to the criteria that would have to be met for newspaper notification not to occur when an offender moved.

When DPS received notice that a person assigned a risk level of one was to be released from a penal institution, placed on probation, or intended to move, it would have to provide written notice of where the person intended to live to at least each residential address within a one-mile radius in areas that have not been subdivided or a three-block area in areas that have been subdivided. The notice would have to be provided within seven days after the date the persons were released or 10 days after the day they moved. The notice could be mailed or delivered. This notification requirement would apply only to persons subject to the registration law for offenses that occur on or after January 1, 2000.

DPS would have to include in the notice any information that was public information and could not include information that was not public information. Adult offenders would have to pay DPS for the cost of providing the notice.

If local law enforcement authorities were notified that someone had been assigned a risk level of one, they would be authorized to notify the public in any manner determined appropriate by the authority. The notice could include holding neighborhood meetings, posting notices in the area where the person intended to reside, distributing printed notices to residents, and establishing a specialized local website. The authority could include in the notice any information that is public.

**SUPPORTERS
SAY:**

Assigning risk levels to offenders and requiring that they be included in a sex offender's registration information would help law enforcement authorities and communities better assess the danger that offenders represent. Public safety would be better served if persons could distinguish between low-risk offenders and sexual predators who are a danger to the community. Giving the public more information would allow persons to take necessary steps to protect themselves and their families.

Texas already has made the decision to require registration and public notification about sex offenders. SB 1650 simply would expand on that decision in an efficient, common sense way to make our streets safer. There is no evidence that SB 1650 would lead to vigilantism or anything else except for increased public safety.

SB 1650 would require that authorities use standardized, sound evaluation techniques to assess an offender's risk level. The risk assessment committee established within TDCJ would be able to choose one of the already existing assessment instruments, and TDCJ staff and courts would then use the instruments to assign offenders' risk levels.

SB 1650 would ensure that the public could gain access to information about all offenders by allowing the lowest risk level to be assigned only after an offender initially had been subject to registration and notification requirements.

SB 1650 would ensure that the public was made aware of the most dangerous offenders by requiring expanded notification of persons assigned a risk level of one. The public in the most danger from a sex offender no longer would have to seek out information about the offender because DPS would have to give them written notice of the offender's whereabouts. Neighborhood residents' awareness of sex offenders in their midst would be raised, and they would be able to take whatever steps they deemed appropriate. Because DPS would do the notification, neighbors' names and addresses would not be known to sex offenders.

At least some of the costs of SB 1650 would be recovered from adult offenders who would be required to pay the cost of notification. Any other cost would be money well spent in protecting the public.

SB 1650 would authorize local law enforcement to make decisions on the local level about how best to notify the public about a level one offender. These decisions are best made on the local level since the situation in each community is unique.

DPS would be able to program its sex offender database and computer system to handle the recording of risk levels and the notification of the public.

**OPPONENTS
SAY:**

Assigning and publicizing risk assessment levels could be misleading to the public and unfair to offenders. An offender could be mislabeled as a level one risk, setting into motion expanded public notification requirements. The public could wrongly assume that risk levels were exact predictors of the danger an offender represented.

SB 1650 would go too far in notifying the public about the whereabouts of sex offenders. Current law requires adequate information for the public to protect itself and raise awareness about sex offenders' whereabouts but also respects the privacy and rights of the individuals identified. Requiring information to be mailed to neighbors could lead to vigilantism or the easy identification of victims. A blanket notification of neighbors would be especially unfair to those sex offenders who are rehabilitated and will not commit another offense.

The authority given to local law enforcement authorities to notify the public in any manner they deem appropriate would be too broad. One authority might choose to hold public meetings, bringing lots of attention to an offender, while another authority might choose to do nothing.

SB 1650 could give the public a false sense of security if they did not receive a notice about a sex offender. For example, a person living one street out of the notification area would not know about an offender but could be in just as much danger as someone in the notification area.

**OTHER
OPPONENTS
SAY:**

SB 1650 should not limit the assignment of risk level three to persons who are moving and who commit only specified offenses. The risk assessment committee and the courts should be able to assign an appropriate risk level to all offenders.

NOTES:

The fiscal note estimates that SB 1650 would cost the state \$390,771 for fiscal 2000-01.