

- SUBJECT:** Residency restrictions for registered sex offenders
- COMMITTEE:** Urban Affairs — committee substitute recommended
- VOTE:** 6 ayes — Alvarado, R. Anderson, Bernal, Elkins, Schaefer, M. White
- 0 nays
- 1 absent — Hunter
- WITNESSES:** For — Steve Smith, City of Bunker Hill; Chris Brammer, City of Eustace; Christy Drake-Adams, Texas Municipal League; (*Registered, but did not testify*: Tatiana Marinkovic, Austin Pets Alive!; Charley Wilkison, Combined Law Enforcement Associations of Texas; Frederick Frazier, Dallas Police Association; Ray Hunt, Houston Police Officers Union; Joe Carrillo and Jimmy Rodriguez, San Antonio Police Officers Association; Jeffrey Brooks, Texas Conservative Coalition; Rodney Thompson, Texas Probation Association; Heath Wester and Kevin Lawrence, Texas Municipal Police Association; Erica Howard)
- Against — Josh Gravens, Texas Citizens United for Rehabilitation of Errants (CURE); Mary Sue Molnar, Texas Voices; Richard Gladden; Jennifer Long; Philip Taylor; Brandi Werner; (*Registered, but did not testify*: Patricia Cummings, Texas Criminal Defense Lawyers Association; and 26 individuals)
- BACKGROUND:** Code of Criminal Procedure, ch. 62 establishes the sex offender registry program. The sex offender registry is a system for monitoring and tracking sex offenders following their release into the community. The registry provides information about convicted sex offenders to law enforcement and the public, including an offender's name, current location, and past offenses.
- DIGEST:** CSHB 1872 would grant the governing body of a general-law municipality authority to establish an ordinance restricting registered sex offender from going in, on, or within a specified distance of a child safety

zone, up to 1,000 feet.

This bill would define “child safety zone” as an area where children commonly gather, such as a school, day-care facility, or other facility that regularly holds events primarily for children. This definition would not include a church or other facility owned by a religious organization primarily used for religious purposes.

The bill would provide a registered sex offender an affirmative defense to prosecution if the individual were in, on, or within the restricted area for a legitimate purpose, including transportation of a child that the registered sex offender was legally permitted to be with, transportation to and from work, and other work-related purposes.

The ordinance could establish procedures a registered sex offender to apply for and receive an exemption from the ordinance. It would be required to exempt a registered sex offender already residing in a location within the specified distance of a child safety zone before the date the ordinance was adopted. The exemption would apply only to:

- areas necessary for the registered sex offender to have access to and to live in the residence; and
- the period the registered sex offender lived in the residence.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSHB 1872 would provide general-law municipalities with some of the authority larger home-rule municipalities already have when dealing with ordinances restricting the movement of sex offenders. Home-rule municipalities may adopt any ordinance they wish unless prohibited by state law, and many have chosen to restrict the movement of sex offenders. These restrictions can cause offenders to move into smaller municipalities that do not have the same authority, which could put these sex offenders within a potentially dangerous distance of children. This bill

would permit smaller municipalities to establish an ordinance of their own that could help ensure the safety of the children in the community.

This bill would not be burdensome because it would grandfather sex offenders currently living near child-safety zones and would create an affirmative defense to prosecution for offenders who had a legitimate purpose for violating the ordinance, such as transporting children to and from school if this activity was otherwise permitted by law. In addition, local ordinances could be crafted to allow offenders to apply for other exemptions.

OPPONENTS
SAY:

CSHB 1872 would allow general-law municipalities to enact ordinances that could make it difficult for people on the sex-offender registry to find housing. As larger municipalities establish residency restrictions, offenders are pushed into less populated areas that might not have the necessary specialized treatment or law enforcement monitoring to properly account for their presence. Being forced to move due to residency restrictions can cause offenders to be separated from supportive family members, disrupt employment, and cause housing instability — all of which are associated with increased potential for reoffending. A common, troubling result of these ordinances is the clustering of offenders in regions distant from more densely populated municipalities, creating high-risk areas.

This bill also would not provide sufficient guidelines for the proposed affirmative defense. While an affirmative defense would be available for a “legitimate purpose,” this language is vague and might not apply to purposes that were not related to work or the transportation of a child.

OTHER
OPPONENTS
SAY:

CSHB 1872 is meant to protect children from high-risk sexual reoffenders but the list of registered sex offenders contains both low-risk and high-risk offenders. Risk management should be commensurate with the level and type of risk presented by each offender. A blanket policy should not be applied to all offenders. Instead, the bill should require a municipality to establish a process for providing exemptions to some low-risk offenders.

This bill should require general-law municipalities crafting an ordinance to seek advice from law enforcement or medical personnel who provide treatment to sex offenders. Involving these professionals in this process could help ensure that any ordinance would be fair to the offender while instilling confidence in the community that it would protect public safety.

NOTES:

The author plans to introduce a floor amendment to require, rather than allow, an ordinance to establish procedures for a registered sex offender to apply for, but not necessarily receive, an exemption from the ordinance.