

SUBJECT: Prohibiting sex offenders in prison from using the internet to find pen pals

COMMITTEE: Corrections — favorable, without amendment

VOTE: 6 ayes — White, Allen, Bailes, Dean, Sherman, Stephenson

0 nays

2 absent — Bowers, Neave

WITNESSES: For — William Busby; (*Registered, but did not testify*: Jason Vaughn)

Against — Lauren Oertel, Texas Inmate Families Association; Hans Maverick; (*Registered, but did not testify*: Hal Wuertz, Austin Justice Coalition)

On — Sharon Howell, Texas Department of Criminal Justice

DIGEST: HB 428 would require the Texas Department of Criminal Justice (TDCJ) to prohibit sex offenders in state custody from placing an advertisement on the internet to solicit a pen pal. The prohibition would apply regardless of whether another person submitted or paid for the ad.

The bill would take effect September 1, 2019, and TDCJ would have to adopt a policy that complied with the bill by December 1, 2019.

SUPPORTERS SAY: HB 428 would close a gap in current policies that could be used by sex offenders to find new potential victims. By requiring a TDCJ policy prohibiting sex offenders from placing ads for pen pals on the internet, the bill would help protect potential victims.

Currently, inmates can post ads on internet sites soliciting pen pals, and these relationships could be used by sex offenders to gain the trust of other people and commit new crimes. Under the policy required by the bill, TDCJ could watch for inmates placing such ads and would be able to take disciplinary action if an ad were placed. The policy would apply to

all sex offenders because of the seriousness of these crimes and the potential of pen pal relationships to further them.

HB 428 would not punish sex offenders or reduce their ability to communicate with the outside world while incarcerated. Inmates have several ways to keep in touch with family, friends, and others, including visits, telephone calls, and mail, that would not be affected by the bill. Prisons may limit inmate mail under certain conditions, and HB 428 is a logical extension of those policies.

HB 428 would not infringe on inmates' free speech rights because offenders would have other avenues of communication. Other states have similar restrictions that have been upheld by courts, and the prohibition on using the internet to solicit pen pals would be similar to the current prohibition on inmates creating or maintaining social media accounts while in prison.

OPPONENTS  
SAY:

HB 428 could hurt some inmates' efforts to rehabilitate and reintegrate into society by reducing their ability to keep in contact with the outside world. Many inmates have limited connections with family or friends, and pen pals can help them maintain contact with society. Communicating with pen pals gives many inmates hope and a sense of purpose, helping them cope with prison life and prepare to reintegrate into society. The state should be supporting these efforts, not making them more difficult.

While protecting individuals from crime is important, HB 428 would unfairly punish thousands of sex offenders in state custody because of the threat of a potential crime. This amounts to unfair, preemptive punishment of one group of inmates that is unreasonable given the benefits of pen pals. Those agreeing to be pen pals with inmates are capable of deciding whether to continue correspondence.

OTHER  
OPPONENTS  
SAY:

As a way to balance free speech rights and security concerns, it might be better to tailor a prohibition on soliciting pen pals through the internet so that it applied only to inmates who were the highest security concerns.