

BILL ANALYSIS

Senate Research Center

H.B. 2699
By: Gray (Brown)
Criminal Justice
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Engrossed

DIGEST

The Council on Sex Offender Treatment (council) was established in 1983 as an interagency council and redefined by the legislature as a three-member council in 1993. The council is responsible for addressing the need and effectiveness of sex offender treatment services and collecting and disseminating information about available sex offender treatment programs. Additionally, the council is responsible for maintaining a registry of sex offender treatment providers and developing treatment strategies, standards of practice, and continuing education programs for such providers. The council is subject to the Sunset Act and will be abolished September 1, 1997, unless continued by the legislature. As a result of its review, the Sunset Advisory Committee recommended continuation and several statutory modifications that are contained in this legislation.

PURPOSE

As proposed, H.B. 2699 recommends continuation of the Council on Sex Offender Treatment for a 12-year period and makes statutory modifications.

RULEMAKING AUTHORITY

Rulemaking authority is granted in SECTION 2 (Sec. 2(b), Article 4413(51)V.T.C.S.) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1, Article 4413(51), V.T.C.S., to define "board" and "department." Makes conforming changes.

SECTION 2. Amends Section 2, Article 4413(51), V.T.C.S., to provide that the Council on Sex Offender Treatment (council) is within the Texas Department of Health (department). Authorizes the council to adopt rules consistent with this Act. Requires the council, in adopting rules, to consider the rules and procedures of the Texas Board of Health (board) and the department and to adopt procedural rules consistent with similar existing rules and procedures of the board or the department.

SECTION 3. Amends Section 3, Article 4413(51), V.T.C.S., as follows:

Sec. 3. New heading: COUNCIL MEMBERSHIP; QUALIFICATIONS. Sets forth composition of the council. Adds standard language developed by the Sunset Commission regarding membership and qualifications for the council. Deletes existing Subsections (b) and (c) regarding an interagency advisory committee.

SECTION 4. Amends Article 4413(51), V.T.C.S., by adding Section 3A, as follows:

Sec. 3A. CONFLICT OF INTEREST. Adds standard language developed by the Sunset Commission regarding conflicts of interest.

SECTION 5. Amends Section 4, Article 4413(51), V.T.C.S., as follows:

Sec. 4. New heading: TERMS; GROUNDS FOR REMOVAL. Provides that members of the council hold office for staggered terms of six years, with two members' terms, rather than

one member's term, expiring February 1 of each odd-numbered year. Adds standard language developed by the Sunset Commission regarding grounds for removal.

SECTION 6. Amends Section 5, Article 4413(51), V.T.C.S., to require the governor to designate a member of the council as the presiding officer of the council to serve in that capacity at the pleasure of the governor. Provides that four members, rather than two members, of the council constitute a quorum. Deletes existing Subsections (a) and (d) regarding the chairman of the council and the interagency advisory commission. Makes a conforming change.

SECTION 7. Amends Article 4413(51), V.T.C.S., by adding Section 5A, as follows:

Sec. 5A. **ADVISORY COMMITTEE.** Provides that an interagency advisory committee (committee) is established to advise the council on administering its duties under this Act. Sets forth composition of the committee. Requires the committee to elect a presiding officer from among its members. Requires the committee to meet at the call of its presiding officer or at the request of the council. A majority of the members of the committee constitutes a quorum.

SECTION 8. Amends Section 7, Article 4413(51), V.T.C.S., by amending Subsection (a) and adding Subsection (c), to require the commissioner of health to employ an executive director, chosen with the advice and consent of the council, who is the executive head of the council and performs its administrative duties. Requires the council to develop and implement policies that clearly separate the policymaking responsibilities of the council and the management responsibilities of the executive director and the staff of the council. Adds standard language developed by the Sunset Commission regarding qualifications for employment.

SECTION 9. Amends Section 8, Article 4413(51), V.T.C.S., to delete Subdivision (1) regarding a state administered sex offender treatment program. Makes a nonsubstantive change.

SECTION 10. Amends Article 4413(51), V.T.C.S., by adding Section 8A, as follows:

Sec. 8A. **PUBLIC ACCESSIBILITY.** Adds standard language developed by the Sunset Commission regarding public accessibility.

SECTION 11. Amends Article 4413(51), V.T.C.S., by adding Section 8B, as follows:

Sec. 8B. **COMPLAINT RESOLUTION.** Adds standard language developed by the Sunset Commission regarding complaint resolution procedures.

SECTION 12. Amends Section 13, Article 4413(51), V.T.C.S., by adding Subsection (c), to authorize the council to waive any prerequisite to registration for an applicant after reviewing the applicant's credentials and determining that the applicant holds a valid registration from another state that has registration requirements substantially equivalent to those of this state.

SECTION 13. Amends Section 13A, Article 4413(51), to require, rather than authorize, the council to charge and collect reasonable fees in an amount necessary to recover the cost of administering this Act and to send all fees collected under this section to the department. Authorizes fees charged and collected by the council under this section to include sex offender treatment provider registration and renewal fees. Adds standard language developed by the Sunset Commission regarding registration and license renewal.

SECTION 14. Amends Section 13C, Article 4413(51), V.T.C.S., as follows:

Sec. 13C. New heading: **ADMINISTRATIVE HEARING AND JUDICIAL REVIEW REGARDING EXCLUSION FROM REGISTRY.** Adds standard language developed by the Sunset Commission regarding administrative hearings and judicial review. Makes conforming, nonsubstantive, and standard recodification changes.

SECTION 15. Amends Section 14, Article 4413(51), V.T.C.S., as follows:

Sec. 14. New heading: DEPOSIT TO STATE TREASURY; ANNUAL REPORT. Adds standard language developed by the Sunset Commission regarding finances. Deletes existing text regarding application of Chapter 325, Government Code.

SECTION 16. Amends Section 413.009(a), Government Code, to require the Criminal Justice Policy Council to evaluate the rehabilitative capabilities of a state-administered sex offender treatment program and, based on that evaluation, determine if the program is necessary.

SECTION 17. (a) Sets forth provisions regarding the transfer of certain items from the council to the department.

(b) Sets forth regulations regarding appointments to the council by the governor.

(c) Sets forth regulations regarding the effect of this Act on current members of the council.

(d) Requires the commissioner of public health, as soon as possible on or after September 1, 1997, to employ an executive director for the council as required by Section 7, Article 4413(51), V.T.C.S., as amended by this Act. Provides that the change in law made by this Act to Section 7 does not prohibit the commissioner of public health from employing as executive director the person who holds that position immediately before September 1, 1997.

SECTION 18. Effective date: September 1, 1997.

SECTION 19. Emergency clause.