

SUBJECT: Counseling and notification requirements for paroled sex offenders

COMMITTEE: Corrections — committee substitute recommended

VOTE: 7 ayes — Haggerty, Farrar, Allen, Ellis, Gray, Isett, Ritter

0 nays

2 absent — Hodge, Hopson

WITNESSES: For — None

Against — Stuart DeLuca

On — Gerald Garrett, Board of Pardons and Paroles; Wayne Scott, Texas Department of Criminal Justice

BACKGROUND: Government Code, sec. 508.152 requires the Texas Department of Criminal Justice (TDCJ) to obtain certain information regarding an inmate, such as the circumstances of the offense and the inmate's health and criminal records, not later than the 120th day after the inmate is admitted to the institutional division.

Government Code, sec. 508.187(b) requires a parole panel to establish a child safety zone for certain paroled sex offenders and requires the parolees to attend psychological counseling for sex offenders. TDCJ Parole Division policy allows a therapist to determine the length of time the paroled sex offender must spend in treatment.

Government Code, sec. 508.187(a) mandates that the child safety zone apply only to offenders convicted of sexual assault, aggravated sexual assault, indecency with a child, prohibited sexual contact, sexual performance by a child, possession or promotion of child pornography, or aggravated kidnapping or burglary with intent to commit a sexual offense. The victim in each of these cases would have to be a child, defined as a person younger than 17 years of age who is not the spouse of the actor.

Code of Criminal Procedure, art. 56.11 requires that TDCJ or the sheriff, whichever has custody of the defendant in a felony case, notify the victim of the offense when the defendant completes his or her sentence and is released or if the defendant escapes from a correctional facility. The article applies to offenders convicted of an offense involving family violence, stalking, or violation of a protective order or magistrate's order.

Code of Criminal Procedure, art. 62.03 requires a risk assessment review committee established by TDCJ to determine a sex offender's level of risk to the community before release.

**DIGEST:**

CSHB 223 would amend Government Code, sec. 508.152 to require an attorney representing the state in the prosecution of an offense under sec. 508.187(a) to provide written comments to TDCJ about the circumstances of the offense and other information the attorney determines to be relevant to any future parole decisions regarding the inmate.

The bill would amend Government Code, sec. 508.187(b) to require a parolee to whom a child safety zone applies to attend psychological counseling for sex offenders for a period of time determined necessary by the parole panel.

CSHB 223 also would amend Code of Criminal Procedure, art. 56.11(c) to add victim notification requirements for offenses described by Government Code, sec. 508.187(a).

The bill would take effect on September 1, 2001.

**SUPPORTERS  
SAY:**

CSHB 223 is needed to put more emphasis in current law on protecting children from sex offenders. The bill would help protect children by giving the decision to set the length of a sex offender's counseling to the body that is most accountable – the parole board. If the board were to set unreasonably short counseling periods for sex offenders, its decisions could be held up for public scrutiny.

CSHB 223 would assist child victims of sex offenses by requiring the state to inform them when those who committed the offense against them were released or escaped from prison. Current law only requires the state to notify

victims of family violence, stalking, or violation of a protective order or magistrate's order when an offender escapes or is released. Other crime victims can be informed, but only if they first request it. CSHB 223 would help keep crime victims from slipping through the cracks because not all victims know to request that they be informed.

OPPONENTS  
SAY:

CSHB 223 is unnecessary because its provisions already are covered by current law. Code of Criminal Procedure, art. 42.09 does not permit counties to transfer inmates to TDCJ until they deliver certain information about the inmate, including the nature and seriousness of the offense, criminal history, and a copy of the victim impact statement. The sheriff, district clerk, or prosecutor is responsible for providing the information, and the Institutional Division of TDCJ must make it available to the Parole Division upon request. In addition, the length of a sex offender's counseling can be extended by a therapist, and victims already are eligible to be notified of an offender's release or escape under Code of Criminal Procedure, art. 56.02.

CSHB 223 would take away the decision to set the length of a sex offender's counseling from therapists, the people who have professional experience in determining how much therapy offenders need. Parole board members are not required to have an educational background in psychology and would have no way of knowing how long to send an inmate through therapy. The parole board could set unreasonably long periods of counseling for political reasons that have nothing to do with an individual offender. In addition, this bill would add to the parole board's already extensive list of duties and would require them to take over management of activities that currently are the responsibility of the parole division of TDCJ, the division that oversees the day-to-day operations of parole.

NOTES:

HB 223 as filed would have amended Government Code, sec. 508.141 to require the parole panel to submit inmates convicted of an offense under sec. 508.187(a) to an evaluation by an individual or organization that provides sex offender treatment or counseling to determine if the inmate would pose a threat to public safety. The bill also would have required paroled sex offenders to attend psychological counseling for not less than three years.