

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**May 18, 2005**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB867** by Allen, Ray (Relating to the registration and supervision of sex offenders; providing penalties.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Code of Criminal Procedure, the Penal Code, the Transportation Code, and the Health and Safety Code as it relates to the registration and supervision of sex offenders and provide penalties.

The bill would revise Article 62, Code of Criminal Procedure, relating to Sex Offender Registration. The bill would add certain obscenity offenses (Section 43.23, Penal Code), Improper Relationship between Educator and Student (Section 21.12, Penal Code) and Improper Photography or Visual Recording (Section 21.15, Penal Code) to the list of offenses for which registration is required. The bill would also require the Texas Department of Criminal Justice to establish a risk assessment review committee, composed of at least seven members, responsible for the development or selection of a sex offender screening tool to be used to determine the risk level of a person subject to registration.

The Department of Public Safety (DPS) would be required to create and distribute a guide for the determination of similar offenses from other states, the federal government, and foreign nations. The bill would require that DPS post on their website specific information on those required to register. DPS would also be required to notify higher education institutions and licensing agencies of registrants. The bill would not allow local law enforcement authorities to publish sex offender notifications in newspapers or other periodicals or circulars if the person's registration is required only as a result of one or more adjudications of delinquent conduct. The bill would also prohibit certain sex offenders or sexually violent predators from residing within 1,000 feet of a public or private school campus. If such person is already residing in the area, it would require the state, county, or local law enforcement agency with the primary responsibility of registering or supervising the person to provide written notice to the appropriate public or private school campus not later than the first day of instruction each school year.

Under the provisions of the bill, certain young adult offenders would be allowed to file a petition for exemption from registration. The bill provides procedures for juvenile sex offender registration exemption hearings after the disposition of a case or the adjudication of an offense for which registration is required. The bill also provides procedures for registration exemptions for youths who are currently registered offenders, including out-of-state adjudications. The bill provides instructions on early registration termination for youths who exceed the minimum required registration period under federal law. The bill states that persons required to register are responsible for all costs associated with the risk assessment. The bill also provides information on the effect of early registration termination on the youth's conditions on parole, mandatory supervision, or community supervision.

The bill would require a law enforcement agency serving as the person's primary registration authority to take one or more specimens for the purpose of creating a DNA record. The law enforcement agency could either send the DNA specimen to DPS for analysis or provide DPS with an analysis of the specimen performed by a DPS-approved laboratory. Both juveniles and adults (instead of just

juveniles) are allowed to have registration information removed when the duty to register is completed. The requirement for mandatory newspaper notification by law enforcement for adult offenders is changed to a permissive newspaper publication for a numeric risk level three offender. The bill would apply to reportable offenses on or after September 1, 1970.

The federal Wetterling Act prescribes a 10-year registration requirement for offenders convicted of a sexually violent offense or a criminal offense against a victim who is a minor. The Act provides for a mandatory 10 percent reduction in Byrne Formula Grant funding for states that are not in compliance. The provisions of the bill could result in a 10 percent reduction in Federal Funds received through the Byrne Formula Grant. In fiscal year 2005, the state will receive \$40,557,000 through Byrne Formula Grants. The potential loss in Federal Funds would be \$4,055,700.

The bill would repeal Subsection (g) and (h), Section 19, Article 42.12, Code of Criminal Procedure which relates to fees incurred by local law enforcement to provide publication notification.

The bill would take effect on September 1, 2005.

### **Local Government Impact**

It is assumed that the additional demands on local law enforcement agencies regarding new requirements for sex offender registrations, removal from the sex offender database, and mandatory newspaper notifications would be absorbed within existing resources.

Local juvenile justice courts could see more costs associated with sex offender registration required of certain youthful offenders. The costs would depend on the number of individuals who request an exemption from registration or an order of nonpublic registration.

Local law enforcement agencies could experience a slight increase in administrative costs related to the annual notice provided to public and private schools of the presence of a sex offender or sexually violent predator residing within 1,000 feet of the campus.

**Source Agencies:** 665 Juvenile Probation Commission, 694 Youth Commission, 405 Department of Public Safety, 696 Department of Criminal Justice

**LBB Staff:** JOB, KJG, VDS, LG