

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

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

**April 18, 2005**

**TO:** Honorable Terry Keel, Chair, House Committee on Criminal Jurisprudence

**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 Introduced**

**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 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 five 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 require a registrant to inform the owner, manager, or administrator of the facility either orally or in writing, before or immediately after entering a playground, a school, a video arcade facility, a youth center, a public or private institution of higher education, or any premises owned or operated by a playground, school, video arcade facility, youth center, or public or private institution of higher education, of the person's name, registration status under Chapter 62, presence at the facility, and the estimated period the person intends to remain.

Under the provisions of the bill, certain youthful offenders would be allowed to file a petition for exemption from registration. The bill would allow a previously denied registrant to re-file for exemption from registration every five years.

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 can either send the DNA specimen to DPS for analysis or provide DPS with an analysis of the specimen performed by a DPS-approved laboratory. DPS would be required to accept a Texas Department of Criminal Justice (TDCJ) offender identification card as proof of identity for the issuance of a driver's license or identification card. 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 Subsections (g) and (h), Section 19, Article 42.12, Code of Criminal Procedure and Section 54.051 (g), Family Code which relate to fees and transfers of determinate sentence probation to the appropriate district court.

The bill would take effect on September 1, 2005.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated. 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.

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

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