

BILL ANALYSIS

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S.B. 689
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Criminal Justice
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The solicitation of children online is a problem that is becoming increasingly pervasive and of great concern. With the ever-increasing use and development of cyber technology, sexual predators who look for victims on the Internet or social networking sites have new ways of preying upon children in Texas. For example, the Attorney General's Fugitive Unit recently arrested a convicted sex offender who accessed a social networking site in violation of his parole conditions due to using both his home computer and mobile phone to access his social networking account.

Because current law does not require convicted sex offenders to disclose any electronic identification information, law enforcement authorities often have difficulty in identifying individuals who are accessing the Internet or social networking sites in violation of their parole conditions. This bill seeks to address that problem by giving law enforcement authorities and social networking sites additional information that can be used to track sex offenders online.

As proposed, S.B. 689 updates sex offender registration laws by requiring that convicted sex offenders provide certain information upon registration of the sex offender registry, including email addresses, home, work or cellular telephone numbers, and each alias, assumed name, nickname, or pseudonym, including a screen name. The bill also requires the Department of Public Safety to establish a procedure by which commercial social networking sites and Internet service providers in the state may request all Internet certification identifiers belonging to a person listed in the computerized central database. The bill also requires that certain offenders on community supervision or parole be prohibited from using the Internet to access pornography or engage in certain other acts.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Department of Public Safety in SECTION 5 (Article 62.051, Code of Criminal Procedure) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11, Article 42.12, Code of Criminal Procedure, by adding Subsection (j), as follows:

(j) Requires the court as a condition of community supervision, if the court grants community supervision to a defendant who is convicted of or receives a grant of deferred adjudication for an offense under Section 33.021 (Online Solicitation of a Minor), Penal Code, or who is assigned a numeric risk level of three based on an assessment conducted under Article 62.007 (Risk Assessment Review Committee; Sex Offender Screening Tool), to prohibit the defendant from using the Internet to access pornographic material; or communicate with one or more individuals for the purpose of promoting sexual relations with an individual who is younger than 18 years of age.

SECTION 2. Amends Article 62.005, Code of Criminal Procedure, by adding Subsection (j), as follows:

(j) Requires the Department of Public Safety (DPS) to release all relevant information described by Subsection (a) (regarding the requirement for DPS to maintain a computerized central database containing the information required for registration under

Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure) to the attorney general on the attorney general's written request providing DPS with a person's name, driver's license number, personal identification certificate number, license plate number, or Internet communication identifier.

SECTION 3. Amends Subchapter A, Chapter 62, Code of Criminal Procedure, by adding Article 62.0061, as follows:

Art. 62.0061. REQUEST FOR INTERNET COMMUNICATION IDENTIFIERS BY SOCIAL NETWORKING SITES AND INTERNET SERVICE PROVIDERS. (a) Requires DPS to establish a procedure by which commercial social networking sites and Internet service providers providing service in this state may request all Internet communication identifiers belonging to a person listed in the computerized central database. Requires DPS, on receipt of a request submitted under this article containing a person's name, driver's license number, personal identification certificate number, or Internet communication identifier, to confirm whether the person is required to register under this chapter and provide the networking site or service provider with all Internet communication identifiers listed for the person in the computerized central database.

(b) Authorizes a commercial social networking site or Internet service provider to use the information to prescreen persons seeking to use the site or service; or preclude persons registered under this chapter from using the site or service.

(c) Requires a commercial social networking site or Internet service provider that receives information under this article to promptly notify DPS, the attorney general, and appropriate local law enforcement authorities of any possible criminal activity engaged in by a person with respect to whom information was provided to the networking site or the service provider under Subsection (a). Requires DPS, the attorney general, and authorities to establish a uniform procedure for exchanging information regarding any notification provided by a networking site or service provider under this subsection.

(d) Defines "commercial social networking site."

SECTION 4. Amends Article 62.005(b), Code of Criminal Procedure, as follows:

(b) Provides that the information contained in the database, including the numeric risk level assigned to a person under this chapter, is public information, with the exception of any information regarding the person's social security number or driver's license number, or any home, work, or cellular telephone number of the person; that is required by DPS under Article 62.051(c)(8) (relating to any other information required by DPS), rather than 62.051(c)(7) (relating to the identification of any electronic mail address, instant messaging address, or other Internet communication identifier established or used by the person); or that would identify the victim of the offense for which the person is subject to registration.

SECTION 5. Amends Article 62.051, Code of Criminal Procedure, by amending Subsection (c) and adding Subsection (j), as follows:

(c) Requires that the registration form require certain information regarding the person, including any home, work, or cellular telephone number of the person, and each alias, assumed name, nickname, or pseudonym, including a screen name, used by the person; and the identification of any electronic mail address, instant messaging address, or other Internet communication identifier established or used by the person. Makes conforming and nonsubstantive changes.

(j) Requires DPS by rule to define "screen name" and "Internet communication identifier."

SECTION 6. Amends Article 62.053(f), Code of Criminal Procedure, to make conforming changes.

SECTION 7. Amends Article 62.055(g), Code of Criminal Procedure, to make conforming changes.

SECTION 8. Amends Subchapter F, Chapter 508, Government Code, by adding Section 508.1861 as follows:

Sec. 508.1861. PROHIBITIONS ON INTERNET ACCESS FOR CERTAIN SEX OFFENDERS. Requires the parole panel as a condition of parole or mandatory supervision, if the parole panel releases on parole or to mandatory supervision a person who is serving a sentence for an offense under Section 33.021, Penal Code, or who is assigned a numeric risk level of three based on an assessment conducted under Article 62.007, Code of Criminal Procedure, to prohibit the releasee from using the Internet to access pornographic material; or communicate with one or more individuals for the purpose of promoting sexual relations with an individual who is younger than 18 years of age.

SECTION 9. (a) Makes application of Section 11(j), Article 42.12, Code of Criminal Procedure, and Section 508.1861, Government Code, as added by this Act, prospective.

(b) Provides that the change in law made by this Act in amending Chapter 62, Code of Criminal Procedure, applies to any person who, on or after the effective date of this Act, is subject to registration under that chapter regardless of whether the offense for which the person is subject to registration was committed before, on, or after the effective date of this Act.

SECTION 10. Effective date: September 1, 2009.