

1-1 By: Shapiro, Nelson S.B. No. 689
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1-3 read first time and referred to Committee on Criminal Justice;
1-4 April 29, 2009, reported adversely, with favorable Committee
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1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 689 By: Seliger

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to restrictions on the use of the Internet by sex offenders
1-11 and to the reporting, collection, and exchange of information
1-12 regarding those offenders; providing a civil penalty.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Article 42.12, Code of Criminal Procedure, is
1-15 amended by adding Section 13E to read as follows:

1-16 Sec. 13E. PROHIBITIONS ON INTERNET ACCESS FOR CERTAIN SEX
1-17 OFFENDERS. (a) This section applies only to a person who is
1-18 required to register as a sex offender under Chapter 62, by court
1-19 order or otherwise, and:

1-20 (1) is convicted of or receives a grant of deferred
1-21 adjudication community supervision for a violation of Section
1-22 21.11, 22.011(a)(2), 22.021(a)(1)(B), 33.021, or 43.25, Penal
1-23 Code;

1-24 (2) used the Internet or any other type of electronic
1-25 device used for Internet access to commit the offense or engage in
1-26 the conduct for which the person is required to register under
1-27 Chapter 62; or

1-28 (3) is assigned a numeric risk level of three based on
1-29 an assessment conducted under Article 62.007.

1-30 (b) If the court grants community supervision to a defendant
1-31 described by Subsection (a), the court as a condition of community
1-32 supervision shall prohibit the defendant from using the Internet
1-33 to:

1-34 (1) access material that is obscene as defined by
1-35 Section 43.21, Penal Code;

1-36 (2) access a commercial social networking site, as
1-37 defined by Article 62.0061(f);

1-38 (3) communicate with any individual concerning sexual
1-39 relations with an individual who is younger than 17 years of age; or

1-40 (4) communicate with another individual the defendant
1-41 knows is younger than 17 years of age.

1-42 (c) The court may modify at any time the condition described
1-43 by Subsection (b)(4) if:

1-44 (1) the condition interferes with the defendant's
1-45 ability to attend school or become or remain employed and
1-46 consequently constitutes an undue hardship for the defendant; or

1-47 (2) the defendant is the parent or guardian of an
1-48 individual who is younger than 17 years of age and the defendant is
1-49 not otherwise prohibited from communicating with that individual.

1-50 SECTION 2. Article 62.001, Code of Criminal Procedure, is
1-51 amended by adding Subdivision (11) to read as follows:

1-52 (11) "Online identifier" means electronic mail
1-53 address information or a name used by a person when sending or
1-54 receiving an instant message, social networking communication, or
1-55 similar Internet communication or when participating in an Internet
1-56 chat. The term includes an assumed name, nickname, pseudonym,
1-57 moniker, or user name established by a person for use in connection
1-58 with an electronic mail address, chat or instant chat room
1-59 platform, commercial social networking site, or online
1-60 picture-sharing service.

1-61 SECTION 3. Article 62.005, Code of Criminal Procedure, is
1-62 amended by amending Subsection (b) and adding Subsection (j) to
1-63 read as follows:

2-1 (b) The information contained in the database, including
2-2 the numeric risk level assigned to a person under this chapter, is
2-3 public information, with the exception of any information:

2-4 (1) regarding the person's social security number
2-5 or ~~[7]~~ driver's license number, or any home, work, or cellular
2-6 telephone number of the person;

2-7 (2) that is described [required] by [the department
2-8 under] Article 62.051(c)(7) or required by the department under
2-9 Article 62.051(c)(8); or

2-10 (3) that would identify the victim of the offense for
2-11 which the person is subject to registration.

2-12 (j) The department, for law enforcement purposes, shall
2-13 release all relevant information described by Subsection (a),
2-14 including information that is not public information under
2-15 Subsection (b), to a peace officer, an employee of a local law
2-16 enforcement authority, or the attorney general on the request of
2-17 the applicable person or entity.

2-18 SECTION 4. Subchapter A, Chapter 62, Code of Criminal
2-19 Procedure, is amended by adding Article 62.0061 to read as follows:

2-20 Art. 62.0061. REQUEST FOR ONLINE IDENTIFIERS BY SOCIAL
2-21 NETWORKING SITES. (a) On request by a commercial social
2-22 networking site, the department may provide to the commercial
2-23 social networking site:

2-24 (1) all public information that is contained in the
2-25 database maintained under Article 62.005; and

2-26 (2) notwithstanding Article 62.005(b)(2), any online
2-27 identifier established or used by a person who uses the site, is
2-28 seeking to use the site, or is precluded from using the site.

2-29 (b) The department by rule shall establish a procedure
2-30 through which a commercial social networking site may request
2-31 information under Subsection (a), including rules regarding the
2-32 eligibility of commercial social networking sites to request
2-33 information under Subsection (a). The department shall consult
2-34 with the attorney general, other appropriate state agencies, and
2-35 other appropriate entities in adopting rules under this subsection.

2-36 (c) A commercial social networking site or the site's agent:

2-37 (1) may use information received under Subsection (a)
2-38 only to:

2-39 (A) prescreen persons seeking to use the site; or

2-40 (B) preclude persons registered under this
2-41 chapter from using the site; and

2-42 (2) may not use any information received under
2-43 Subsection (a) that the networking site obtained solely under
2-44 Subsection (a) in any manner not described by Subdivision (1).

2-45 (d) A commercial social networking site that uses
2-46 information received under Subsection (a) in any manner not
2-47 described by Subsection (c)(1) or that violates a rule adopted by
2-48 the department under Subsection (b) is subject to a civil penalty of
2-49 \$1,000 for each misuse of information or rule violation. A
2-50 commercial social networking site that is assessed a civil penalty
2-51 under this article shall pay, in addition to the civil penalty, all
2-52 court costs, investigative costs, and attorney's fees associated
2-53 with the assessment of the penalty. A civil penalty assessed under
2-54 this subsection shall be deposited to the compensation to victims
2-55 of crime fund established under Subchapter B, Chapter 56.

2-56 (e) This article does not create a private cause of action
2-57 against a commercial social networking site, including a cause of
2-58 action that is based on the site:

2-59 (1) identifying, removing, disabling, blocking, or
2-60 otherwise affecting the user of a commercial social networking
2-61 site, based on a good faith belief that the person is required to
2-62 register as a sex offender under this chapter or federal law; or

2-63 (2) failing to identify, remove, disable, block, or
2-64 otherwise affect the user of a commercial social networking site
2-65 who is required to register as a sex offender under this chapter or
2-66 federal law.

2-67 (f) In this article, "commercial social networking site":

2-68 (1) means an Internet website that:

2-69 (A) allows users, through the creation of

3-1 Internet web pages or profiles or other similar means, to provide
3-2 personal information to the public or other users of the Internet
3-3 website;

3-4 (B) offers a mechanism for communication with
3-5 other users of the Internet website; and

3-6 (C) has the primary purpose of facilitating
3-7 online social interactions; and

3-8 (2) does not include an Internet service provider,
3-9 unless the Internet service provider separately operates and
3-10 directly derives revenue from an Internet website described by
3-11 Subdivision (1).

3-12 SECTION 5. Subsection (c), Article 62.051, Code of Criminal
3-13 Procedure, is amended to read as follows:

3-14 (c) The registration form shall require:

3-15 (1) the person's full name, [~~each alias,~~] date of
3-16 birth, sex, race, height, weight, eye color, hair color, social
3-17 security number, driver's license number, shoe size, and home
3-18 address and each alias used by the person and any home, work, or
3-19 cellular telephone number of the person;

3-20 (2) a recent color photograph or, if possible, an
3-21 electronic digital image of the person and a complete set of the
3-22 person's fingerprints;

3-23 (3) the type of offense the person was convicted of,
3-24 the age of the victim, the date of conviction, and the punishment
3-25 received;

3-26 (4) an indication as to whether the person is
3-27 discharged, paroled, or released on juvenile probation, community
3-28 supervision, or mandatory supervision;

3-29 (5) an indication of each license, as defined by
3-30 Article 62.005(g), that is held or sought by the person;

3-31 (6) an indication as to whether the person is or will
3-32 be employed, carrying on a vocation, or a student at a particular
3-33 public or private institution of higher education in this state or
3-34 another state, and the name and address of that institution; [~~and~~]

3-35 (7) the identification of any online identifier
3-36 established or used by the person; and

3-37 (8) any other information required by the department.

3-38 SECTION 6. Subsection (f), Article 62.053, Code of Criminal
3-39 Procedure, is amended to read as follows:

3-40 (f) The local law enforcement authority shall include in the
3-41 notice to the superintendent of the public school district and to
3-42 the administrator of any private primary or secondary school
3-43 located in the public school district any information the authority
3-44 determines is necessary to protect the public, except:

3-45 (1) the person's social security number or [~~7~~] driver's
3-46 license number, or any home, work, or cellular telephone number of
3-47 the person; and

3-48 (2) any information that would identify the victim of
3-49 the offense for which the person is subject to registration.

3-50 SECTION 7. Subsection (g), Article 62.055, Code of Criminal
3-51 Procedure, is amended to read as follows:

3-52 (g) The local law enforcement authority shall include in the
3-53 notice to the superintendent of the public school district and the
3-54 administrator of any private primary or secondary school located in
3-55 the public school district any information the authority determines
3-56 is necessary to protect the public, except:

3-57 (1) the person's social security number or [~~7~~] driver's
3-58 license number, or any home, work, or cellular telephone number of
3-59 the person; and

3-60 (2) any information that would identify the victim of
3-61 the offense for which the person is subject to registration.

3-62 SECTION 8. Subchapter B, Chapter 62, Code of Criminal
3-63 Procedure, is amended by adding Article 62.0551 to read as follows:

3-64 Art. 62.0551. CHANGE IN ONLINE IDENTIFIERS. (a) If a
3-65 person required to register under this chapter changes any online
3-66 identifier included on the person's registration form or
3-67 establishes any new online identifier not already included on the
3-68 person's registration form, the person, not later than the later of
3-69 the seventh day after the change or establishment or the first date

4-1 the applicable authority by policy allows the person to report,
4-2 shall report the change or establishment to the person's primary
4-3 registration authority in the manner prescribed by the authority.

4-4 (b) A primary registration authority that receives
4-5 information under this article shall forward information in the
4-6 same manner as information received by the authority under Article
4-7 62.055.

4-8 SECTION 9. Subsections (a) and (b), Article 62.057, Code of
4-9 Criminal Procedure, are amended to read as follows:

4-10 (a) If the juvenile probation officer, community
4-11 supervision and corrections department officer, or parole officer
4-12 supervising a person subject to registration under this chapter
4-13 receives information to the effect that the person's status has
4-14 changed in any manner that affects proper supervision of the
4-15 person, including a change in the person's name, online
4-16 identifiers, physical health, job or educational status, including
4-17 higher educational status, incarceration, or terms of release, the
4-18 supervising officer shall promptly notify the appropriate local law
4-19 enforcement authority or authorities of that change. If the person
4-20 required to register intends to change address, the supervising
4-21 officer shall notify the local law enforcement authorities
4-22 designated by Article 62.055(b). Not later than the seventh day
4-23 after the date the supervising officer receives the relevant
4-24 information, the supervising officer shall notify the local law
4-25 enforcement authority of any change in the person's job or
4-26 educational status in which the person:

4-27 (1) becomes employed, begins to carry on a vocation,
4-28 or becomes a student at a particular public or private institution
4-29 of higher education; or

4-30 (2) terminates the person's status in that capacity.

4-31 (b) Not later than the later of the seventh day after the
4-32 date of the change or the first date the applicable authority by
4-33 policy allows the person to report, a person subject to
4-34 registration under this chapter shall report to the local law
4-35 enforcement authority designated as the person's primary
4-36 registration authority by the department any change in the person's
4-37 name, online identifiers, physical health, or job or educational
4-38 status, including higher educational status.

4-39 SECTION 10. Subchapter F, Chapter 508, Government Code, is
4-40 amended by adding Section 508.1861 to read as follows:

4-41 Sec. 508.1861. PROHIBITIONS ON INTERNET ACCESS FOR CERTAIN
4-42 SEX OFFENDERS. (a) This section applies only to a person who, on
4-43 release, will be required to register as a sex offender under
4-44 Chapter 62, Code of Criminal Procedure, by court order or
4-45 otherwise, and:

4-46 (1) is serving a sentence for an offense under Section
4-47 21.11, 22.011(a)(2), 22.021(a)(1)(B), 33.021, or 43.25, Penal
4-48 Code;

4-49 (2) used the Internet or any other type of electronic
4-50 device used for Internet access to commit the offense or engage in
4-51 the conduct for which the person is required to register under
4-52 Chapter 62, Code of Criminal Procedure; or

4-53 (3) is assigned a numeric risk level of three based on
4-54 an assessment conducted under Article 62.007, Code of Criminal
4-55 Procedure.

4-56 (b) If the parole panel releases on parole or to mandatory
4-57 supervision a person described by Subsection (a), the parole panel
4-58 as a condition of parole or mandatory supervision shall prohibit
4-59 the releasee from using the Internet to:

4-60 (1) access material that is obscene as defined by
4-61 Section 43.21, Penal Code;

4-62 (2) access a commercial social networking site, as
4-63 defined by Article 62.0061(f), Code of Criminal Procedure;

4-64 (3) communicate with any individual concerning sexual
4-65 relations with an individual who is younger than 17 years of age; or

4-66 (4) communicate with another individual the releasee
4-67 knows is younger than 17 years of age.

4-68 (c) The parole panel may modify at any time the condition
4-69 described by Subsection (b)(4) if:

5-1 (1) the condition interferes with the releasee's
5-2 ability to attend school or become or remain employed and
5-3 consequently constitutes an undue hardship for the releasee; or

5-4 (2) the releasee is the parent or guardian of an
5-5 individual who is younger than 17 years of age and the releasee is
5-6 not otherwise prohibited from communicating with that individual.

5-7 SECTION 11. The changes in law made by this Act in adding
5-8 Section 13E, Article 42.12, Code of Criminal Procedure, and Section
5-9 508.1861, Government Code, apply only to a person who is placed on
5-10 community supervision or released on parole or to mandatory
5-11 supervision on or after the effective date of this Act.

5-12 SECTION 12. The Department of Public Safety of the State of
5-13 Texas shall implement Subsection (c), Article 62.051, Code of
5-14 Criminal Procedure, as amended by this Act, and Subsection (j),
5-15 Article 62.005, and Article 62.0061, Code of Criminal Procedure, as
5-16 added by this Act, as soon as practicable after September 1, 2009,
5-17 but not later than January 1, 2010.

5-18 SECTION 13. The change in law made by this Act in amending
5-19 Chapter 62, Code of Criminal Procedure, applies to any person who,
5-20 on or after January 1, 2010, is subject to registration under that
5-21 chapter regardless of whether the offense or conduct for which the
5-22 person is subject to registration occurred before, on, or after
5-23 that date.

5-24 SECTION 14. This Act takes effect September 1, 2009.

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