

CHAPTER 591

S.B. No. 1130

AN ACT

relating to the Interagency Council on Sex Offender Treatment; providing a criminal penalty.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Sections 1 through 4, Chapter 462, Acts of the 68th Legislature, Regular Session, 1983 (Article 4413(51), Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 1. DEFINITIONS. In this Act:

(1) "Council" means the [~~Interagency~~] Council on Sex Offender Treatment.

(2) "Registry" means a database that is maintained by the council and that contains the names of persons who have met the council's criteria for the treatment of sex offenders and who provide mental health or medical services for the rehabilitation of sex offenders.

(3) "Rehabilitation service" means a mental health treatment or medical intervention program designed to treat or remedy a sex offender's mental or medical problem that may relate or contribute to the sex offender's criminal or paraphiliac problem.

(4) [(3)] "Sex offender" means a person who:

(A) is convicted of committing or adjudicated to have committed a sex crime under the laws of a state or under federal law;

(B) is awarded deferred adjudication for a sex crime under the laws of a state or under federal law;

(C) ~~admits to having violated the law of a state or federal law with regard to sexual conduct [admits to committing or has been convicted of an offense under any of the following sections of the Penal Code:~~

- ~~[(i) Section 20.04(a)(4) (Aggravated kidnapping);~~
- ~~[(ii) Section 21.07 (Public lewdness);~~
- ~~[(iii) Section 21.08 (Indecent exposure);~~
- ~~[(iv) Section 21.11 (Indecency with a child);~~
- ~~[(v) Section 22.011 (Sexual assault);~~
- ~~[(vi) Section 22.021 (Aggravated sexual assault);~~
- ~~[(vii) Section 25.02 (Incest);~~
- ~~[(viii) Section 25.06 (Solicitation of a child); or~~
- ~~[(ix) Section 43.25 (Sexual performance by a child)]; or~~

(D) ~~[(B)]~~ experiences or evidences a paraphiliac disorder as defined by the Revised Diagnostic and Statistical Manual, *including any subsequent revision of that manual* ~~[(III)].~~

(5) ~~[(4)]~~ "Sex offender treatment ~~[Treatment]~~ provider" means a person, licensed or certified to practice in this state, who provides mental health or medical services for rehabilitation of sex offenders, including a physician, psychiatrist, psychologist, *licensed professional counselor, licensed marriage and family therapist, or certified social worker.*

Sec. 2. COUNCIL. The ~~[Interagency]~~ Council on Sex Offender Treatment is established.

Sec. 3. COUNCIL MEMBERSHIP; ADVISORY COMMITTEE. (a) The council is composed of *three public members each of whom meets the council's requirements for registration as a sex offender treatment provider. The governor shall appoint the members of the council with the advice and consent of the senate.*

(b) *An interagency advisory committee may advise the council on administering its duties under this Act. The interagency advisory committee is composed of 11 [13] members. The executive head of each of the following agencies or the designated representative of the executive head shall serve as a [an ex officio] member of the interagency advisory committee [council]: the institutional division of the Texas Department of Criminal Justice [Corrections], pardons and paroles division of the Texas Department of Criminal Justice [Board of Pardons and Paroles], community justice assistance division of the Texas Department of Criminal Justice [Texas Adult Probation Commission], Texas Juvenile Probation Commission, Texas Department of Mental Health and Mental Retardation, Texas Youth Commission [Council], Sam Houston State University, [Texas] Department of Protective and Regulatory [Human] Services, Texas Council of Community Mental Health and Mental Retardation Centers, and Texas Department of Health. The director of the Criminal Justice Division of the Governor's Office or the designated representative of the director shall serve as a [an ex officio] member of the interagency advisory committee [council. The governor shall appoint three public members to the council with the advice and consent of the senate].*

(c) ~~[(b)]~~ If the director of the Criminal Justice Division of the Governor's Office or an executive head of a state agency designates a representative as a member of the interagency advisory committee, the representative must be at the time of the designation and during the time of service on the committee ~~[council]~~ an officer or employee of the agency or division. ~~[The three members appointed by the governor must be at the time of appointment and during the time of service on the council representatives of the general public with expertise in the treatment of sex offenders.]~~

Sec. 4. TERMS. *Members [Public members] of the council hold office for staggered terms of six years, with one member's term expiring February 1 of each odd-numbered year.*

SECTION 2. Section 5, Chapter 462, Acts of the 68th Legislature, Regular Session, 1983 (Article 4413(51), Vernon's Texas Civil Statutes), is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) *Two [Seven] members of the council constitute a quorum.*

(d) *The interagency advisory committee shall elect a chairman from among its members. The committee shall meet at the call of its chairman or at the request of the council. Seven members of the committee constitute a quorum.*

SECTION 3. Sections 8, 11, 12, and 13, Chapter 462, Acts of the 68th Legislature, Regular Session, 1983 (Article 4413(51), Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 8. DUTIES. The council shall:

(1) determine if a state-administered sex offender treatment program is necessary and identify needed services for the treatment and rehabilitation of sex offenders and report to the governor, lieutenant governor, and speaker of the house of representatives about the nature of the services and the funding necessary for the services;

(2) *develop treatment strategies for sex offenders by evaluating* ~~[evaluate]~~ *in-state and out-of-state programs for sex offender treatment, set standards for treatment of sex offenders that must be met by sex offender treatment providers to be eligible for inclusion in the council's registry, and recommend to licensing and regulatory boards and to the directors of current programs methods of improving* ~~[the]~~ *programs to meet council standards;*

(3) collect and disseminate information to judicial officers, probation or parole workers, *appropriate state and municipal agencies*, and the general public about available sex offender treatment programs;

(4) distribute money appropriated *to the council* by the legislature for that purpose to political subdivisions, private organizations, or other persons to be used for the development, operation, or evaluation of sex offender treatment programs;

(5) advise and assist agencies in coordinating procedures to provide treatment services that may include community-based programs;

(6) establish and maintain a registry of *sex offender treatment providers* ~~[individuals and programs providing mental health and medical services for sex offenders]~~ in accordance with Section 13 of this Act; ~~[and]~~

(7) *design and conduct continuing education programs for sex offender treatment providers; and*

(8) *develop and implement by rule registration requirements and procedures for treatment providers in the registry* ~~[apply for available funds from the federal or state government or other public or private sources to perform the council's duties].~~

Sec. 11. AGENCY COOPERATION. Each state agency or division of an agency represented on the *interagency advisory committee* ~~[council]~~ shall cooperate with the council if requested to do so by the council.

Sec. 12. GRANTS AND DONATIONS. The council may *apply for and* accept on behalf of the state a grant or donation from any source to be used by the council to perform its duties.

Sec. 13. REGISTRY. (a) The council shall establish and maintain a registry of *sex offender treatment providers* ~~[individuals who provide mental health or medical services for rehabilitation of sex offenders].~~

(b) The council by rule shall develop procedures and eligibility requirements for *inclusion in the registry, including, if appropriate, those related to clinical practice experience and assessment, continuing education, and supervision* ~~[registration].~~

~~[(c) The council may set a reasonable fee for registration to cover the costs of administering the registry.]~~

SECTION 4. Chapter 462, Acts of the 68th Legislature, Regular Session, 1983 (Article 4413(51), Vernon's Texas Civil Statutes), is amended by adding Sections 13A, 13B, and 13C to read as follows:

Sec. 13A. FEES. *The council may charge and collect reasonable fees in an amount set to cover the council's administrative and reproduction costs, including:*

(1) *sex offender treatment provider fees;*

(2) training fees;

(3) publication fees; and

(4) fees for providing continuing education and other services to treatment providers.

**Sec. 13B. REGISTRATION REQUIRED; OFFENSE.** (a) A person may not claim to be a sex offender treatment provider or use the title "sex offender treatment provider" unless the person is listed in the registry.

(b) A person commits an offense if the person is not listed in the registry and the person claims to be a sex offender treatment provider or uses a title that contains the words "sex offender treatment provider." An offense under this subsection is a Class C misdemeanor.

**Sec. 13C. JUDICIAL REVIEW OF EXCLUSION FROM REGISTRY.** A person excluded from the registry may appeal the council's decision to exclude the person from the registry by filing a petition for judicial review in the manner provided by Section 19, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

**SECTION 5.** Section 14, Chapter 462, Acts of the 68th Legislature, Regular Session, 1983 (Article 4413(51), Vernon's Texas Civil Statutes), is amended to read as follows:

**Sec. 14. APPLICATION OF SUNSET ACT [~~ABOLITION AND EXPIRATION~~].** The council is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the [The] council is abolished and this Act expires September 1, 1997 [1995]. [~~On that date, the records and other property in the custody of the council are transferred to the State Purchasing and General Services Commission.~~]

**SECTION 6.** An individual or program that on the effective date of this Act is included in the provider registry established and maintained by the Interagency Council on Sex Offender Treatment is registered as a sex offender treatment provider under the provider registry of the Council on Sex Offender Treatment on the effective date of this Act. The Council on Sex Offender Treatment shall review the status of a provider that is transferred to its registry under this section and may change the provider's status after evaluating the provider's compliance with council standards for inclusion in the registry. The Council on Sex Offender Treatment shall give a provider proper notice and a reasonable opportunity to meet registry standards before changing the provider's status under this section.

**SECTION 7.** (a) The three public members of the Interagency Council on Sex Offender Treatment who are serving on the effective date of this Act shall serve the remainder of their terms of office as members of the Council on Sex Offender Treatment. Terms of the nonpublic members of the Interagency Council on Sex Offender Treatment expire on the effective date of this Act, and on that date those members shall begin service as members of the interagency advisory committee created by this Act.

(b) A form, rule, registration requirement, or procedure adopted by the Interagency Council on Sex Offender Treatment that is in effect on the effective date of this Act remains in effect on and after that date as if adopted by the Council on Sex Offender Treatment until amended, repealed, withdrawn, or otherwise superseded by the Council on Sex Offender Treatment.

(c) The Council on Sex Offender Treatment is the successor agency to the Interagency Council on Sex Offender Treatment's appropriations, funds, property, employees, and obligations.

**SECTION 8.** This Act takes effect September 1, 1993.

**SECTION 9.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 30, 1993, by a viva-voce vote; the Senate concurred in House amendment on May 28, 1993, by a viva-voce vote; passed the House, with amendment, on May 26, 1993, by a non-record vote.

Approved June 12, 1993.

Effective Sept. 1, 1993.