

STATE BAR OF TEXAS JUVENILE LAW SECTION
AND THE TEXAS JUVENILE PROBATION COMMISSION'S
NUTS AND BOLTS OF JUVENILE LAW
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ETHICAL CONSIDERATIONS IN JUVENILE SEX OFFENDER REGISTRATION

A PRESENTATION BY
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I. SEX OFFENDER REGISTRATION IN GENERAL

A. Generally

In 1991, the legislature enacted a sex offender registration requirement that applies to juveniles as well as adults. The statute has been amended and its reach expanded in every legislative session since then, including 2007. The laws regarding sex offender registration may be found in Chapter 62 of the Code of Criminal Procedure.

Sex Offender Registration basically involves the registration with a local law enforcement authority of information about the offender, including his or her place of residence. It also requires frequent re-registration, including whenever the offender moves his or her place of residence. It may also involve school notification.

The obligation to register for a juvenile expires ten years after the juvenile completes the terms of the disposition.

B. Sex Offender Registration Has Been Deemed to Be Constitutional

1. The Texas juvenile sex offender registration statute does not violate due process of law. In re M.A.H., 20 S.W.3d 860 (Ft. Worth 2000)
2. The Texas sex offender registration statute does not violate the double jeopardy provisions of the U.S. Constitution. Alexander v. State, 2004 Tex.App. LEXIS 5222 (Tex.App.-Dallas 2004); Hooks v. State, 144 S.W.3d 652 (Tex.App.-Beaumont 2004)
3. The Texas sex offender registration statute does not violate the prohibition on ex post facto laws. Coronado v. State, 148 S.W.3d 607 (Tex.App.-Houston [14th] 2004); Lantz v. State, 2003 Tex.App. LEXIS 4722 (Tex.App.-Houston [14th] 2003); Dean v. State, 60 S.W.3d 217 (Tex.App.-Houston [14th] 2001)
4. The Texas sex offender registration statute does not violate the equal protection provision of the U.S. Constitution. Mungia v. State, 2002 Tex.App. LEXIS 4395 (Tex.App.-Corpus Christi 2002)
5. The Texas juvenile sex offender registration requirements do not constitute cruel and unusual punishment. In re D.L., 160 S.W.3d 155 (Tex.App.-Tyler, 2005)

II. CHAPTER 62 CODE OF CRIMINAL PROCEDURE

A. Who Has to Register?

1. Art. 62.001 requires the registration for a person who has an adjudication of delinquent conduct for or based on the following crimes as defined by the Texas Penal Code:
 1. Sec. 21.02 – continuous sexual abuse of young child or children*
 2. Sec. 21.11 - indecency with a child
 3. Sec. 22.011 - sexual assault
 4. Sec. 22.021- aggravated sexual assault
 5. Sec. 25.02 - prohibited sexual conduct
 6. Sec. 43.05 - compelling prostitution
 7. Sec. 43.25 - sexual performance by a child
 8. Sec. 43.26 - possession or promotion of child pornography
 9. Sec. 20.04(a)(4) - aggravated kidnapping (if the actor committed the offense or engaged in the conduct with the intent to violate or abuse the victim sexually)

* Effective September 1, 2007 – copy of Section 21.02 Texas Penal Code attached

10. Sec. 30.02 - burglary of a habitation (if the actor committed the offense or engaged in the conduct with intent to commit one of the following felonies: continuous sexual abuse of young child or children, indecency with a child, sexual assault, aggravated sexual assault, prohibited sexual conduct or aggravated kidnapping (if the kidnapping was committed with intent to violate or abuse the victim sexually))
11. Sec. 20.02 - unlawful restraint, if the victim was younger than 17 at the time of the offense
12. Sec. 20.03 – kidnapping, if the victim was younger than 17 at the time of the offense
13. Sec. 20.04 - aggravated kidnapping, if the victim was younger than 17 at the time of the offense
14. Sec. 33.021 – online solicitation of a minor*
15. The second violation of Sec. 21.08 - indecent exposure
16. An attempt, conspiracy, or solicitation to commit an offense or engage in any of the conduct listed in 1 through 13 above
17. A violation of the laws of another state, federal law, the laws of a foreign county or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of an offense listed under 1 through 14 above, but not if the violation resulted in a deferred adjudication
18. The second violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of the offense of indecent exposure but not if the second violation results in a deferred adjudication

2. Texas Residents with Out-of-State Adjudications.

If a juvenile is adjudicated under federal law, law of a foreign country or a sister state for an offense that contains elements that are substantially similar to the elements of a covered Texas offense, that person is required to register with the appropriate local law enforcement authority in Texas if he or she resides in Texas. DPS makes the determination whether an offense contains elements that are substantially similar to the elements of an offense under the laws of this state. Art. 62.003. An appeal of a determination made under this article shall be brought in a district court in Travis County.

3. Out-of-State Residents Who Work or Attend School in Texas

If a juvenile resides out of Texas but has an adjudication for an offense that is covered by Texas law (which might be a Texas offense or an out-of-state offense) and is working or attending school in Texas, he or she is required to register with the local law enforcement authority in the municipality or county in which the employment or school is located.

4. Texas Residents Who Work or Attend School Out-of-State

If the other state has a registration requirement for sex offenders, a person who resides in this state, and who is employed, carries on a vocation, or is a student in another state shall, not later than the 10th day after the date on which the person begins to work or attend school in the other state register with the law enforcement authority that is identified by DPS as the authority designated by that state to receive registration information. If the person is employed, carries on a vocation, or is a student at a public or private institution of higher education in the other state and if an authority for campus security exists at the institution, the person shall also register with that authority not later than the 10th day after the date on which the person begins to work or attend school. Art. 62.051(i)

B. Other Considerations Affecting a Juvenile's Obligation to Register

A pending appeal or pending pardon of an adjudication or conviction does not affect a duty to register as a sex offender. However, if the conviction or adjudication is set aside on appeal or if the person receives a pardon on the basis of subsequent proof of innocence, the duty to register is terminated.

* Effective September 1, 2007 – a copy of the bill is attached

C. Prerelease Notification

Art. 62.053 requires the appropriate officials notify a juvenile of his or her registration obligations and to fill in a registration form before he or she is released from TYC, from a secure local facility or placed on probation.

Art. 62.053 provides:

(a) Before a person who will be subject to registration under this chapter is due to be released from a penal institution, the Texas Department of Criminal Justice or the Texas Youth Commission shall determine the person's level of risk to the community using the sex offender screening tool developed or selected under Article 62.007 and assign to the person a numeric risk level of one, two, or three.¹ Before releasing the person, an official of the penal institution shall:

- (1) inform the person that:
 - (A) not later than the later of the seventh day after the date on which the person is released or after the date on which the person moves from a previous residence to a new residence in this state or not later than the later of the first date the applicable local law enforcement authority by policy allows the person to register or verify registration, the person must register or verify registration with the local law enforcement authority in the municipality or county in which the person intends to reside;
 - (B) not later than the seventh day after the day on which the person is released or the date on which the person moves from a previous residence to a new residence in this state, the person must, if the person has not moved to an intended residence, report to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person;
 - (C) not later than the seventh day before the date on which the person moves to a new residence in this state or another state, the person must report in person to the local law enforcement authority designated as the person's primary registration authority by the department and to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person;
 - (D) not later than the 10th day after the date on which the person arrives in another state in which the person intends to reside, the person must register with the law enforcement agency that is identified by the department as the agency designated by that state to receive registration information, if the other state has a registration requirement for sex offenders;
 - (E) not later than the 30th day after the date on which the person is released, the person must apply to the department in person for the issuance of an original or renewal driver's license or personal identification certificate and a failure to apply to the department as required by this paragraph results in the automatic revocation of any driver's license or personal identification certificate issued by the department to the person; and
 - (F) the person must notify appropriate entities of any change in status as described by Article 62.057.
 - (2) require the person to sign a written statement that the person was informed of the person's duties as described by Subdivision (1) or Subsection (g) or, if the person refuses to sign the statement, certify that the person was so informed;
 - (3) obtain the address where the person expects to reside on the person's release and other registration information, including a photograph and complete set of fingerprints; and
 - (4) complete the registration form for the person.
- (b) On the seventh day before the date on which a person who will be subject to registration under this chapter is due to be released from a penal institution, or on receipt of notice by a penal institution that a person who will be subject to registration under this chapter is due to be

¹ Risk assessment form attached

released in less than seven days, an official of the penal institution shall send the person's completed registration form and numeric risk level to the department and to:

- (1) the applicable local law enforcement authority in the municipality or county in which the person expects to reside, if the person expects to reside in this state; or
 - (2) the law enforcement agency that is identified by the department as the agency designated by another state to receive registration information, if the person expects to reside in that other state and that other state has a registration requirement for sex offenders.
- (c) If a person who is subject to registration under this chapter receives an order deferring adjudication, placing the person on community supervision or juvenile probation, or imposing only a fine, the court pronouncing the order or sentence shall make a determination of the person's numeric risk level using the sex offender screening tool developed or selected under Article 62.007, assign to the person a numeric risk level of one, two, or three, and ensure that the prerelease notification and registration requirements specified in this article are conducted on the day of entering the order or sentencing. If a community supervision and corrections department representative is available in court at the time a court pronounces a sentence of deferred adjudication or community supervision, the representative shall immediately obtain the person's numeric risk level from the court and conduct the prerelease notification and registration requirements specified in this article. In any other case in which the court pronounces a sentence under this subsection, the court shall designate another appropriate individual to obtain the person's numeric risk level from the court and conduct the prerelease notification and registration requirements specified in this article.
- (d) If a person who has a reportable conviction described by Art. 62.001(5)(H) or (I) is placed under the supervision of the pardons and paroles division of the Texas Department of Criminal Justice or a community supervision and corrections department under Art. 42.11, the division or community supervision and corrections department shall conduct the prerelease notification and registration requirements specified in this article on the date the person is placed under the supervision of the division or community supervision and corrections department. If a person who has a reportable adjudication of delinquent conduct described by Art. 62.001(5)(H) or (I) is, as permitted by Sec. 60.002, Family Code, placed under the supervision of the Texas Youth Commission, a public or private vendor operating under contract with the Texas Youth Commission, a local juvenile probation department, or a juvenile secure pre-adjudication or post-adjudication facility, the commission, vendor, probation department, or facility shall conduct the prerelease notification and registration requirements specified in this article on the date the person is placed under the supervision of the commission, vendor, probation department, or facility.
- (e) Not later than the eighth day after receiving a registration form under Subsection (b), (c), or (d), the local law enforcement authority shall verify the age of the victim, the basis on which the person is subject to registration under this chapter, and the person's numeric risk level. The local law enforcement authority shall immediately provide notice to the superintendent of the public school district and to the administrator of any private primary or secondary school located in the public school district in which the person subject to registration intends to reside by mail to the office of the superintendent or administrator, as appropriate in accordance with Article 62.054. On receipt of a notice under this subsection, the superintendent shall release the information contained in the notice to appropriate school district personnel, including peace officers and security personnel, principals, nurses, and counselors.
- (f) The local law enforcement authority shall include in the notice to the superintendent of the public school district and to the administrator of any private primary or secondary school located in the public school district any information the authority determines is necessary to protect the public, except:
- (1) the person's social security number, driver's license number or telephone number; and

- (2) any information that would identify the victim of the offense for which the person is subject to registration.
- (g) Before a person who will be subject to registration under this chapter is due to be released from a penal institution in this state, an official of the penal institution shall inform the person that:
- (1) if the person intends to reside in another state and to work or attend school in this state, the person must, not later than the later of the seventh day after the date on which the person begins to work or attend school or the first date the applicable local law enforcement authority by policy allows the person to register or verify registration, register or verify registration with the local law enforcement authority in the municipality or county in which the person intends to work or attend school;
 - (2) if the person intends to reside in this state and to work or attend school in another state and if the other state has a registration requirement for sex offenders, the person must:
 - (A) not later than the 10th day after the date on which the person begins to work or attend school in the other state, register with the law enforcement authority that is identified by the department as the authority designated by that state to receive registration information; and
 - (B) if the person intends to be employed, carry on a vocation, or be a student at a public or private institution of higher education in the other state and if an authority for campus security exists at the institution, register with that authority not later than the 10th day after the date on which the person begins to work or attend school; and
 - (3) regardless of the state in which the person intends to reside, if the person intends to be employed, carry on a vocation or be a student at a public or private institution of higher education in this state, the person must:
 - (A) not later than the later of the seventh day after the date on which the person begins to work or attend school or the first date the applicable authority by policy allows the person to register, register with:
 - (i) the authority for campus security for that institution; or
 - (ii) except as provided by Article 62.153(e), if an authority for campus security for that institution does not exist, the local enforcement authority of:
 - (a) the municipality in which the institution is located; or
 - (b) the county in which the institution is located, if the institution is not located in a municipality; and
 - (B) not later than the seventh day after the date the person stops working or attending school, notify the appropriate authority for campus security or local law enforcement authority of the termination of the person's status as a worker or student.

D. Procedural Requirements for Registering - Art. 62.051

1. General Requirements

- (a) A person who has a reportable conviction or adjudication or who is required to register as a condition of parole, release to mandatory supervision, or community supervision shall register or, if the person is a person for whom registration is completed under this chapter, verify registration as provided by Subsection (f), with the local law enforcement authority in any municipality where the person resides or intends to reside for more than seven days. If the person does not reside or intend to reside in a municipality, the person shall register or verify registration in any county where the person resides or intends to reside for more than seven days. The person shall satisfy the requirements of this subsection not later than the later of (1)

the seventh day after the person's arrival in the municipality or county, or (2) the first date the local law enforcement authority of the municipality or county by policy allows the person to register or verify registration, as applicable.

- (b) The department shall provide the Texas Department of Criminal Justice, the Texas Youth Commission, the Texas Juvenile Probation Commission, and each local law enforcement authority, authority for campus security, county jail, and court with a form for registering persons required by this chapter to register.
- (c) the registration form shall require:
 - (1) the person's full name, each alias, date of birth, sex, race, height, weight, eye color, hair color, social security number, drivers license number, shoe size, and home address;
 - (2) a recent color photograph or, if possible, an electronic digital image of the person and a complete set of the person's fingerprints;
 - (3) the type of offense the person was convicted of, the age of the victim, the date of conviction, and the punishment received;
 - (4) an indication as to whether the person is discharged, paroled, or released on juvenile probation, community supervision, or mandatory supervision;
 - (5) an indication of each license, as defined by Article 62.005(g), that is held or sought by the person;
 - (6) an indication as to whether the person is or will be employed, carrying on a vocation, or a student at a particular public or private institution of higher education in this state or another state, and the name and address of that institution, and
 - (7) any other information required by the department.
- (d) The registration form must contain a statement and description of any registration duties the person has or may have under this chapter.
- (e) Not later than the third day after a person's registering, the local law enforcement authority with whom the person registered shall send a copy of the registration form to the department and, if the person resides on the campus of a public or private institution of higher education, to any authority for campus security for that institution.
- (f) A person for whom registration is completed under this chapter shall report to the applicable local law enforcement authority to verify the information in the registration form received by the authority under this chapter. The authority shall require the person to produce proof of the person's identity and residence before the authority gives the registration form to the person for verification. If the information in the registration form is complete and accurate, the person shall verify registration by signing the form. If the registration is not complete or not accurate, the person shall make any necessary additions or corrections before signing the form.
- (g) A person who is required to register or verify registration under this chapter shall ensure that the person's registration form is complete and accurate with respect to each item of information required by the form in accordance with Subsection (c).
- (h) If a person subject to registration under this chapter does not move to an intended residence by the end of the seventh day after the date on which the person is released or the date on which the person leaves a previous residence, the person shall:
 - (1) report to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person by not later than the seventh day after the

date on which the person is released or the date on which the person leaves a previous residence, as applicable, and provide the officer with the address of the person's temporary residence; and

- (2) continue to report to the person's supervising officer not less than weekly during any period of time in which the person has not moved to an intended residence and provide the officer with the address of the person's temporary residence.

2. Annual Verification – Art. 62.058

A person subject to registration must report once each year, not earlier than the 30th day before and not later than the 30th day after the anniversary of the person's date of birth to verify the information in the registration form.

E. Obligations of the Registrant When There is a Change of Address - Art. 62.055

1. If a registrant intends to move, Art. 62.055 requires that he notify authorities of his intent:
 - (a) If a person required to register under this chapter intends to change address, regardless of whether the person intends to move to another state, the person shall, not later than the seventh day before the intended change, report in person to the local law enforcement authority designated as the person's primary registration authority by the department and to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person and provide the authority and the officer with the person's anticipated move date and new address. If a person required to register changes address, the person shall, not later than the later of the seventh day after changing the address or the first date the applicable local law enforcement authority by policy allows the person to report, report in person to the local law enforcement authority in the municipality or county in which the person's new residence is located and provide the authority with proof of identity and proof of residence.
 - (b) Not later than the third day after receipt of notice under Subsection (a), the person's juvenile probation officer, community supervision and corrections department officer, or parole officer shall forward the information provided under Subsection (a) to the local law enforcement authority designated as the person's primary registration authority by the department and, if the person intends to move to another municipality or county in this state, to the applicable local law enforcement authority in that municipality or county.
 - (c) If the person moves to another state that has a registration requirement for sex offenders, the person shall, not later than the 10th day after the date on which the person arrives in the other state, register with the law enforcement agency that is identified by the department as the agency designated by that state to receive registration information.
 - (d) Not later than the third day after receipt of information under Subsection (a) or (b), whichever is earlier, the local law enforcement authority shall forward this information to the department and, if the person intends to move to another municipality or county in this state, to the applicable local law enforcement authority in that municipality or county.
 - (e) If a person who reports to a local law enforcement authority under Subsection (a) does not move on or before the anticipated move date or does not move to the new address provided to the authority the person shall:
 - (1) not later than the seventh day after the anticipated move date, and not less than weekly after that seventh day, report to the local law enforcement authority designated as the person's primary registration authority by the department and provide an explanation to the authority regarding any changes in the anticipated move date and intended residence; and
 - (2) report to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person not less than weekly during any period in

which the person has not moved to an intended residence.

- (f) If the person moves to another municipality or county in this state, the department shall inform the applicable local law enforcement authority in the new area of the person's residence not later than the third day after the date on which the department receives information under Subsection (a). Not later than the eighth day after the date on which the local law enforcement authority is informed under Subsection (a) or under this subsection, the authority shall verify the age of the victim, the basis on which the person is subject to registration under this chapter, and the person's numeric risk level. The local law enforcement authority shall immediately provide notice to the superintendent of the public school district and to the administrator of any private primary or secondary school located in the public school district in which the person subject to registration intends to reside by mail to the office of the superintendent or administrator, as appropriate in accordance with Article 62.054. On receipt of a notice under this subsection, the superintendent shall release the information contained in the notice to appropriate school district personnel, including peace officers and security personnel, principals, nurses, and counselors.
- (g) The local law enforcement authority shall include in the notice to the superintendent of the public school district and the administrator of any private primary or secondary school located in the public school district, any information the authority determines is necessary to protect the public, except:
 - (1) the person's social security number, driver's license number, or telephone number; and
 - (2) any information that would identify the victim of the offense for which the person is subject to registration.
- (h) If the person moves to another state, the department shall, immediately on receiving information under Subsection (d):
 - (1) inform the agency that is designated by the other state to receive registration information, if that state has a registration requirement for sex offenders; and
 - (2) send to the Federal Bureau of Investigation a copy of the person's registration form, including the record of conviction and a complete set of fingerprints.

F. Where Does the Information Go?

DPS Sex Offender Registry

- 1. Art. 62.005 mandates that the Department of Public Safety maintain a computerized central database containing the information required for registration and that this information is available to the public.
 - (a) The department shall maintain a computerized central database containing the information required for registration. This central database may include the numeric risk level assigned a person.
 - (b) The information contained in the database is public information, except for information:
 - (1) regarding the person's social security number, driver's license number, or telephone number;
 - (2) that is required by the department under Art. 62.051(c)(7); or
 - (3) that would identify the victim of the offense for which the person is subject to registration
 - (c) ... the department shall maintain in the database, and shall post on any department website related to the database, any photograph of the person that is available through the process for obtaining or renewing a personal identification certificate or driver's license. The department shall update the photograph in the database and on the website annually or as the photograph

otherwise becomes available through the renewal process for the certificate or license.

- (d) A local law enforcement authority shall release any of the public information to any person who requests the information.
 - (h) Not later than the third day after the date on which the applicable information becomes available through the person's registration or verification of registration, the department shall send notice of any person required to register under this chapter who is or will be employed, carrying on a vocation or a student at a public or private institution of higher education in this state to:
 - (1) for an institution in this state:
 - (A) the authority for campus security for that institution; or
 - (B) if an authority for campus security for that institution does not exist, the local law enforcement authority of:
 - (i) the municipality in which the institution is located; or
 - (ii) the county in which the institution is located, if the institution is not located in a municipality; or
 - (2) for an institution in another state, any existing authority for campus security at that institution.
 - (i) On the written request of an institution of higher education that identifies an individual and states that the individual has applied to work or study at the institution, the department shall release database information to the institution.
2. Art. 62.006 provides that DPS establish a procedure by which a peace officer or an employee of a law enforcement agency who provides DPS with a driver's license number, personal identification certificate number or license plate number is automatically provided information as to the duty to register or whether the license plate number is entered in the computerized central database as assigned to a vehicle owned or driven by a person required to register.

G. Additional Notification/Special Circumstances

1. Circumstances Requiring Notice to Superintendent or School Administrator - Art. 62.054

Under Art. 62.054, law enforcement authorities are required to give notice of a sex offender to school district officials, when certain circumstances are present. The statute provides:

- (a) A local law enforcement authority shall provide notice to the superintendent and each administrator under Article 62.053(e) or 62.055(f) only if:
 - (1) the victim was at the time of the offense a child younger than 17 years of age or a student enrolled in a public or private secondary school;
 - (2) the person subject to registration is a student enrolled in a public or private secondary school; or
 - (3) the basis on which the person is subject to registration is a conviction, a deferred adjudication, or an adjudication of delinquent conduct for an offense under Section 43.25 or 43.26, Penal Code, or an offense under the laws of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar to the elements of an offense under either of those sections.
- (b) A local enforcement authority may not provide notice to the superintendent or any administrator under Article 62.053(e) or Article 62.055(f) if the basis on which the person is subject to registration is a conviction, a deferred adjudication, or an adjudication of delinquent conduct for an offense under Section 25.02, Penal Code, or an offense under the laws of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar to

the elements of an offense under that section.

2. Additional Public Notice for Offenders With a Risk Level of Three - Art. 62.056

- (a) On receipt of notice under this chapter that a person subject to registration is due to be released from a penal institution, has been placed on community supervision or juvenile probation, or intends to move to a new residence in this state, the department shall verify the person's numeric risk level assigned under this chapter. If the person is assigned a numeric risk level of three, the department shall, not later than the seventh day after the date on which the person is released or the 10th day after the date on which the person moves, provide written notice mailed or delivered to at least each address, other than a post office box, within a one-mile radius, in an area that has not been subdivided, or a three-block area, in an area that has been subdivided, of the place where the person intends to reside. In providing written notice under this subsection, the department shall use employees of the department whose duties in providing the notice are in addition to the employees' regular duties.
- (b) The department shall provide the notice in English and Spanish and shall include in the notice any information that is public information under this chapter. The department may not include any information that is not public information under this chapter.
- (c) The department shall establish procedures for a person with respect to whom notice is provided under Subsection (a), other than a person subject to registration on the basis of an adjudication of delinquent conduct, to pay to the department all costs incurred by the department in providing the notice. The person shall pay those costs in accordance with the procedures established under this subsection.
- (d) On receipt of notice under this chapter that a person subject to registration under this chapter is required to register or verify registration with a local law enforcement authority and has been assigned a numeric risk level of three, the local law enforcement authority may provide notice to the public in any manner determined appropriate by the local law enforcement authority including publishing notice in a newspaper or other periodical or circular in circulation in the area where the person intends to reside, holding a neighborhood meeting, posting notices in the area where the person intends to reside, distributing printed notices to area residents, or establishing a specialized local website. The local law enforcement authority may include in the notice only information that is public information under this chapter.

3. Limitation on Newspaper Publication - Art. 62.062

Except for the provision contained in Art. 62.056, relating to sex offenders with a numeric risk level of three, a law enforcement authority may not publish notice in a newspaper or other periodical or circular concerning a person's registration under this chapter if the only basis for the registration is one or more adjudications of delinquent conduct.

H. Requirements Relating to Driver's License or Personal Identification Certificate - Art. 62.060

- 1. Art. 62.060 requires that any registered sex offender apply for a driver's license or personal identification certificate or renew their existing driver's license or personal identification certificate in a timely manner or face penalties. The statute specifically provides:
 - (a) A person subject to registration shall apply to DPS for the issuance of, as applicable, an original or renewal driver's license under Sec. 521.272, Transportation Code, or an original or renewal personal identification certificate under Sec. 521.103, Transportation Code, or an original or renewal commercial driver's license or commercial driver learner's permit under Sec. 521.033, Transportation Code, not later than the 30th day after the date:
 - (1) the person is released from a penal institution or is released by a court on community supervision or juvenile probation; or

(2) DPS sends written notice to the person of the requirements of this article.

- (b) The person shall annually renew in person each driver's license or personal identification certificate issued by the department to the person, including each renewal, duplicate, or corrected license or certificate, until the person's duty to register under this chapter expires.

I. Requirement Relating to the Giving of a DNA Specimen - Art. 62.061

A person required to register as a sex offender shall comply with a request for a DNA specimen made by a law enforcement agency under Sec. 411.1473, Government Code.

J. How Long Must a Juvenile Register? - Art. 62.101

1. Under Art. 62.101(b), for a juvenile who was certified as an adult, the duty to register ends on the 10th anniversary of the date on which the person is released from a penal institution or discharges community supervision or the court dismisses the criminal proceedings against the person and discharges the person, whichever date is later.
2. Art. 62.101(c) provides that if the person's duty to register is based on an adjudication of delinquent conduct, the duty to register ends on the 10th anniversary of the date on which the disposition is made or the person completes the terms of the disposition, whichever date is later.

K. Removing Registration Information When Duty to Register Expires - Art. 62.251

When a person is no longer required to register as a sex offender under Chapter 62, DPS shall remove all information about the person from the sex offender registry. This article sets out the procedures for removing that information.

L. Failure to Comply With Registration Requirements - Art. 62.102

1. Art. 62.102 provides that failure to comply with any of the requirements of Chapter 62 constitutes a criminal offense and for juveniles is a state jail felony.

III. EXEMPTIONS FROM REGISTRATION FOR CERTAIN JUVENILES

A. Unregistration

This section applies to the following juveniles:

- a. Any juvenile who would, upon adjudication, be subject to the registration requirement who has a pending adjudication for a "reportable conviction or adjudication."
 - b. Any child in the Texas Youth Commission who has not been released on parole (and who has not been registered as a result of a prior probation or adjudication in the same case).
 - c. Any child who was assessed a determinate sentence and who has been transferred to the Texas Department of Criminal Justice - Institutional Division (the adult prison system) and who has not yet been released on parole.
1. Motion and Hearing Generally. - Art. 62.351
 - (a) During or after disposition of a case under Section 54.04, Family Code, for adjudication of an offense for which registration is required under this chapter, the juvenile court on motion of the respondent shall conduct a hearing to determine whether the interests of the public require registration under this chapter. The motion may be filed and the hearing held regardless of

whether the respondent is under 18 years of age. Notice of the motion and hearing shall be provided to the prosecuting attorney.

- (b) The hearing is without a jury and the burden of persuasion is on the respondent to show by a preponderance of evidence that the criteria of Article 62.352(a) have been met. The court at the hearing may make its determination based on:
 - (1) the receipt of exhibits;
 - (2) the testimony of witnesses
 - (3) representations of counsel for the parties; or
 - (4) the contents of a social history report prepared by the juvenile probation department that may include the results of testing and examination of the respondent by a psychologist, psychiatrist, or counselor.
- (c) All written matter considered by the court shall be disclosed to all parties as provided by Sec. 54.04(b), Family Code.
- (d) If a respondent, as part of a plea agreement, promises not to file a motion seeking an order exempting the respondent from registration under this chapter, the court may not recognize a motion filed by a respondent under this article.

2. Order Generally - Art. 62.352

- (a) The court shall enter an order exempting a respondent from registration under this chapter if the court determines:
 - (1) that the protection of the public would not be increased by registration of the respondent under this chapter; or
 - (2) that any potential increase in protection of the public resulting from registration of the respondent is clearly outweighed by the anticipated substantial harm to the respondent and the respondent's family that would result from registration under this chapter.
- (b) After a hearing under Art. 62.351 or under a plea agreement described by Art. 62.355(b), the juvenile court may enter an order:
 - (1) deferring decision on requiring registration under this chapter until the respondent has completed treatment for the respondent's sexual offense as a condition of probation or while committed to the Texas Youth Commission; or
 - (2) requiring the respondent to register as a sex offender but providing the registration information is not public and is restricted to use by law enforcement and criminal justice agencies, the Council on Sex Offender Treatment and public or private institutions of higher education.
- (c) If the court enters an order deferring its decision on requiring registration, the court retains discretion and jurisdiction to require, or exempt the respondent from, registration under this chapter at any time during the treatment or on the successful or unsuccessful completion of treatment, except that during the period of deferral, registration may not be required. Following successful completion of treatment, the respondent is exempted from registration under this chapter unless a hearing under this subchapter is held on motion of the state, regardless of whether the respondent is 18 years of age or older, and the court determines the interests of the public require registration. Not later than the 10th day after the date of the respondent's successful completion of treatment, the treatment provider shall notify the juvenile court and prosecuting attorney of the completion.

- (d) Information that is the subject of an order for nonpublic registration may not be posted on the internet or released to the public.

3. Tactics for the Practitioner

- a. Timing is Everything

If your client has never been made to register, obviously you want to make sure that he/she does not have to register. Trying to get information back that has already gone out over the internet is like trying to get the cat back in the bag. Your unregistration motion has to be **heard** prior to the duty to register which is within seven days of disposition or release from TYC or TDCJ

- b. What is the Question/Who has the Burden?

The hearing is without a jury and the burden of persuasion is on the Respondent to show by a preponderance of the evidence that the protection of the public would not be increased by registration of the Respondent or that any potential increase in protection of the public resulting from registration is clearly outweighed by the anticipated substantial harm to the Respondent and the Respondent's family. The issue *is not* whether the Respondent is of good character. Therefore, while character witnesses are always nice, the fact that your client is a *nice* kid really isn't the point and certainly won't satisfy your burden of proof.

- c. Exhibits

The Court may rely on witness testimony, exhibits, representations of counsel and the contents of a social history report prepared by the juvenile probation department which may include psychological testing and examinations. All written material must be disclosed to the parties as provided by §54.04(b) of the Family Code. Therefore, if you have reports or other written material, share it with the prosecutor prior to the hearing. Check the court file to make sure you have copies of all the probation department's reports filed with the court and all of the exhibits the ADA intends to use. Talk to the probation officer, make sure you have all of the necessary reports.

- d. Practice in Your Court

You need to know how things work in your court. I have known judges who order all decisions to be deferred until treatment is completed, placing the burden on the State to bring the case back to court. I have known judges who order everyone register on their 18th birthday, placing the burden on the juvenile to come back to court before the order becomes effective. You need to know what the judge in your jurisdiction is doing in order to plan your course of attack.

- e. The Written Motion

Samples are attached.

- f. Expert Witness

Since the judge can rely upon the contents of the probation reports, there should have already been psychological testing. Talk to the psychologist to determine whether they support your motion. If not, consider hiring your own before disposition. Most psychologists will support a determination to defer registration, which places the burden on the State to come back to court after treatment if the ADA wants registration. This is a win for your client.

- g. Witnesses

Find out from the ADA if the victim or the victim's family will come testify. Also try to find out if the arresting officer will testify. Don't be sandbagged by this.

B. Deregistration

This section applies to those juveniles already registered.

1. Motion, Hearing, and Order Concerning Person Already Registered - Art. 62.353

- (a) A person who has registered as a sex offender for an adjudication of delinquent conduct, regardless of when the delinquent conduct or the adjudication for the conduct occurred, may file a motion in the adjudicating juvenile court for a hearing seeking:
 - (1) exemption from registration under this chapter as provided by Art. 62.351; or
 - (2) an order under Art. 62.352(b)(2) that the registration become nonpublic.
- (b) The person may file a motion under Subsection (a) in the original juvenile case regardless of whether the person, at the time of filing the motion, is 18 years of age or older. Notice of the motion shall be provided to the prosecuting attorney. A hearing on the motion shall be provided as in other cases under this subchapter.
- (c) Only one subsequent motion may be filed under Subsection (a) if a previous motion under this article has been filed concerning the case.
- (d) To the extent feasible, the motion under Subsection (a) shall identify those public and private agencies and organizations, including public or private institutions of higher education, that possess sex offender registration information about the case.
- (e) The juvenile court, after a hearing, may:
 - (1) deny a motion filed under Subsection (a)
 - (2) grant a motion described by Subsection (a)(1); or
 - (3) grant a motion described by Subsection (a)(2).
- (f) If the court grants a motion filed under Subsection (a), the clerk of the court shall by certified mail, return receipt requested, send a copy of the order to the department, to each local law enforcement authority that the person has proved to the juvenile court has registration information about the person, and to each public or private agency or organization that the person has proved to the juvenile court has information about the person that is currently available to the public with or without payment of a fee. The clerk of the court shall by certified mail, return receipt requested, send a copy of the order to any other agency or organization designated by the person. The person shall identify the agency or organization and its address and pay a fee of \$20 to the court for each agency or organization the person designates.
- (g) In addition to disseminating the order under Subsection (f), at the request of the person, the clerk of the court shall by certified mail, return receipt requested, send a copy of the order to each public or private agency or organization that at any time following the initial dissemination of the order under Subsection (f) gains possession of sex offender registration information pertaining to that person, if the agency or organization did not otherwise receive a copy of the order under Subsection (f).
- (h) An order under Subsection (f) must require the recipient to conform its records to the court's order either by deleting the sex offender registration information or changing its status to nonpublic, as applicable. A public or private institution of higher education may not be required to delete the sex offender registration information under this subsection.

- (i) A private agency or organization that possesses sex offender registration information the agency or organization obtained from a state, county, or local governmental entity is required to conform the agency's or organization's records to the court's order on or before the 30th day after the date of the entry of the order. Unless the agency or organization is a public or private institution of higher education, failure to comply in that period automatically bars the agency or organization from obtaining sex offender registration information from any state, county, or local governmental entity this state in the future.

2. Motion, Hearing, and Order Concerning Person Already Registered Because of Out-of-State Adjudication - Art. 62.354

- (a) A person required to register as a sex offender in this state because of an out-of state adjudication of delinquent conduct may file in the juvenile court of the person's county of residence a petition under Art. 62.351 for an order exempting the person from registration under this chapter.
- (b) If a person is already registered as a sex offender in this state because of an out-of-state adjudication of delinquent conduct, the person may file in the juvenile court of the person's county of residence a petition under Art. 62.353 for an order removing the person from sex offender registries in this state.
- (c) On receipt of a petition under this article, the juvenile court shall conduct a hearing and make rulings as in other cases under this subchapter.
- (d) An order entered under this article requiring removal of registration information applies only to registration information derived from registration in this state.

3. Tactics for the Practitioner

a. Timing is Everything – You Only Get One Shot, Make It Your Best Shot

If your client has already been registering, the pressure is off with regard to timing. You have total control over the timing of the hearing. Therefore, only set your motion when your client can demonstrate that he/she is doing something productive with his/her life (your client is working, going to college, married, etc.). I have had to counsel clients to postpone the hearing, sometimes for a few years. Don't be afraid to do this. If your client has a determinate sentence and is on parole, remember he will have to register for 10 years after finishing parole (for example, your client got 20 years, he will register for 30 years). You only get one bite at the apple; you have to present your client's best case.

b. What is the Question/Who Has the Burden?

The hearing is to the judge and the burden of persuasion is on the Respondent to show by a preponderance of the evidence the criteria of Article 62.352(a) have been met. The criteria of Art. 62.352(a) are the protection of the public would not be increased by registration of the Respondent or whether any potential increase in protection is clearly outweighed by the anticipated substantial harm to the Respondent and the Respondent's family. The issue *is not* whether the Respondent is of good character. Therefore, while character witnesses are always nice, the fact that your client is a *nice* kid really isn't the point and certainly won't satisfy your burden.

c. Hearing

The Court may rely on witness testimony, exhibits, representations of counsel and the contents of a social history report prepared by the juvenile probation department which may include psychological testing and examinations. All written material must be disclosed to the parties as provided by §54.04(b) of the Family Code. Therefore, if you have reports or other written material, share it with the prosecutor prior to the hearing. Check the court file and make sure

you have copies of all the ADA's exhibits as well.

1. Preparation

If you were not the original attorney on the case, contact the ADA and ask for a copy of the police report. Also talk with the ADA about anything they can remember about your client or the complainant. You can generally get a feel in this conversation whether asking for an agreement will work or not. If the ADA will not give you a copy of the police report, you can try probation. Also, it will be in the client's TYC file, if any.

If your client went to TYC, get a copy of the TYC file. The TYC file will have numerous psychological reports as well as your client's progress through any treatment programs, any medications, any behavioral problems, academic progress, the police report, sex offender risk assessments, etc. (Copies of risk assessment instruments are attached if you want to review how risk is calculated). You will generally not need any witnesses from TYC to prove your client finished the sex offender program because you can get a letter or certificate of program completion from TYC and this information will get in through your expert witness as well. My experience is the ADA will agree to the use of the letter or certificate at the hearing rather than dragging someone from TYC. Make sure you ask first. Contact the people at TYC and ask them about your client. Depending on the case, the ADA may do this and you don't want to be caught unprepared if the TYC people all show up to testify against your client. If the TYC people have nothing good to say about your client, you may want to counsel your client to wait until some time has passed because the testimony of the TYC people becomes less relevant.

Some helpful numbers

TYC Central Office 512-533-2700

Brownwood State School – 325-641-4200

Giddings State School – 979-542-3686

2. The Written Motion

Preparing the Motion is easy. There are samples attached to this article. Always include alternative requests such as deregistration and nonpublic registration. The report referenced in the sample Motions "Juveniles Who Have Sexually Offended, A Review of the Professional Literature" basically states that recidivism rates for juveniles are very low, generally under ten percent. TYC statistics have shown felony sexual offense recidivism for juveniles who receive SBTP is zero and those who do not receive treatment, a little over two percent. Pat Logterman, Director of Treatment and Case Management at the Texas Youth Commission can provide these statistics to you. This data is important because if the chance of your client reoffending sexually is nearly zero, statistically then the public really does not need protection from your client.

The Hard Part – tracking down everyone who might have your client's sex offender information. If the motion is granted the clerk of the court shall send by certified mail a copy of the order to DPS, each local law enforcement authority that has information "and to each public or private agency or organization that the Respondent has proved to the juvenile court has information about the person..." I generally attach a copy of the agencies to the Motion as Exhibit A. So how do you find these agencies that have purchased your client's registration information? The Crime Records Service of the Texas Department of Public Safety provides public records to customers on request. They will also provide the list of customers who have purchased the public records. This information includes the name and address of the customer as well as the date the customer received the database information. The Texas Department of Public Safety website is www.txdps.state.tx.us. If you are unable to find the information on the website, call the Sex Offender Registration Desk at 512-424-2800. Obviously you would only include on your Exhibit A those customers who purchased the information after your client began to register. It will cost you money to send a copy of the Order to all of the agencies so you may want to verify that the agencies are still in business and the addresses are correct. It will cost \$20.00 per agency. Art. 62.353(f).

3. Setting the Motion

You should set the motion with the Judge, preferably with the ADA in tow. You should estimate the amount of time you will need and let the Judge know. I have found these hearings to be relatively short. However, you do not want to set your motion when the Judge knows he/she will be in trial, in the middle of the pretrial docket, etc. Asking the Judge to set the motion helps avoid any resets. I have found Judges usually bend over backwards to hear the motions they have set on their docket themselves. You don't want an expert witness sitting around all morning on the clock only to have to come back another time.

4. Expert Witnesses

Do not expect to win any hearing on this issue without some expert testimony.

Pick an expert who has credibility with your court. If you don't know who has credibility, ask around (the public defenders, the ADA's, other attorneys). As long as you don't have a case pending, you can ask the Judge who they believe to be an expert in this area. Going in with an expert the Judge has little respect for won't help your client. Someone who specializes in juvenile sex offender treatment is going to be your best bet. At the very least, your expert needs to be aware that juvenile recidivism rates are much lower than those of adult offenders and juvenile offenders differ from adult offenders.

The referral question for the expert/psychologist: Is your client a low risk for re-offending? That is the question the Judge will want answered by the expert.

The expert should use a variety of assessment techniques to arrive at an answer to the referral question. The assessment techniques may include: clinical interview, WAIS-III, MMPI-2, projective testing, Sexual Projective Card Set, Sexual History Questionnaire, Juvenile Sex Offender Assessment Protocol-II. The expert is going to want to assess how your client has incorporated what he learned in the sex offender therapy into his daily living skills. In other words how has your client responded to treatment over time.

Don't set your motion until you have the written report back from your expert. In one recent case, the expert made the recommendation my client attend a substance abuse treatment program. I waited until my client had complied with the recommendations before setting the Motion.

Make sure your expert has a copy of all the records (juvenile department records, psychologicals, TYC records, the police report, etc.). One of the first questions the ADA will ask is whether the expert is aware of the crime your client committed. Without knowing that, how can the expert opine whether your client is a low risk to re-offend? The expert's report should have a conclusion answering definitively the referral question. You don't want a wishy/washy expert.

Make sure you get a copy of the expert's C.V. or resume in evidence as an exhibit. Share your report with the ADA. I have had the experience of not needing a hearing after the ADA was able to discuss the case with my expert witness, the ADA agreed to deregistration.

You don't want to defeat your own case by creating your own battle of the experts. If you have a private expert and a TYC expert or juvenile department expert, make sure they each have something to contribute or completely agree with each other. For example, the juvenile department psychologist could testify that the Respondent was a low risk of re-offending at the time of the adjudication and disposition and completed the sex offender program. Your private expert may testify that the Respondent has incorporated what he learned in the program into his daily living and has continued to be a low risk of re-offending.

5. Other Witnesses

You may not have a lot of witnesses for these hearings. Your client may not have informed his employer, girlfriend, neighbors, etc. that he is a registered sex offender. This is not something someone would generally want known. Make sure all of your witnesses are prepared and are aware of the underlying adjudication and the specific facts of the offense.

If he/she is on parole, especially TYC parole, the parole officer may be a great witness. The parole officer can testify about compliance with parole, the results of any maintenance polygraph(s), the difficulty your client has had obtaining employment, housing, etc. These are all critical factors for the judge to consider since *harm to the Respondent* is part of the balancing test.

Family members can testify as to the *harm to Respondent and Respondent's family*. Therefore the testimony is relevant. You don't need 10 family members to do this. Do have the Respondent bring his support group to court. These people can either stand before the bench or sit in the first row without testifying. The Judges know why they are there without hearing repetitious testimony.

Don't bring people to court that will harm you. If the offense was committed against a family member don't bring that family member or his/her parents. Sometimes these folks show up and just lurk in the background ready to ambush you. Make sure you know who everyone is and why they are there before you have them moseying up to the bench.

6. The Other Side's Witnesses

Be prepared for the ADA's witnesses. Ask the ADA before the hearing if the victim and the victim's family will attend the hearing. You don't want to be caught unprepared for these witnesses. The harm Respondent did to the victim or victim's family is not relevant to the hearing, but the Judge is unlikely to shut these witnesses down. Make the point that the victim and the victim's family has not had contact with your client in X years, is not aware of how your client has changed, how productive your client has become in society, etc. If you know they are going to be there, think about calling them as your first witnesses. Make your point that their testimony is remote in time and not relevant and then pass the witness. You may not keep out damaging testimony, but you can take the wind out of the ADA's sails. Make the same argument about remoteness with any psychological expert the State may have.

7. Exhibits

Exhibits – Confer with the ADA before the hearing and see if there will be any objection to your exhibits. Obviously your expert will be the sponsoring witness for his/her report. If you have TYC reports you think are relevant for the hearing, try to get the ADA to agree to the report rather than bringing someone from TYC. The ADA's are usually reasonable with these requests if you ask ahead of time. Don't do this if there are documents in the TYC file that hurt your case. You don't want to get the ADA thinking about ordering their own copy of the TYC file by asking them to agree to your exhibits. No piece of paper from the TYC file will win the day, but it could sink you pretty quickly. Don't offer the entire TYC file, it's not relevant and the Judge won't read it. Limit your exhibits to the relevant question and provide copies for the Court and ADA. Give the Judge things he/she will have time to review before making any decision.

8. Your Client

Prepare your client, prepare your client, prepare your client! Also, get on the internet and find out what your client's myspace page, etc. says about him or her. It may shock you.

9. The Order

Prepare and bring with you copies of all alternative Orders. Samples are attached. Include a list of all the agencies and organizations you want to receive the order, otherwise the clerks won't know where to send them.

Assuming you won your hearing:

After the Judge signs the Order, return the file to the clerks and let them know that the Orders need to be sent out. Ask how the bill needs to be paid or the Orders won't go out. The agencies or organizations have 30 days to delete your client from their records. Get your client a certified copy of the Order before he leaves the courthouse. He may need it to present to his parole officer or have it on hand in case there is some snafu with the copies going to law enforcement. You don't want your client picked up for failing to register and ending up in jail.

10. Waiver of Hearing - Art. 62.355

(a) The prosecuting attorney may waive the state's right to a hearing under this subchapter and agree that registration under this chapter is not required. A waiver under this subsection must state whether the waiver is entered under a plea agreement.

(b) If the waiver is entered under a plea agreement, the court, without a hearing, shall:

(1) enter an order exempting the respondent from registration under this chapter; or

(2) under Section 54.03(i), Family Code, inform the respondent that the court believes a hearing under this article is required and give the respondent the opportunity to:

(A) withdraw the respondent's plea of guilty, nolo contendere, or true; or

(B) affirm the respondent's plea and participate in the hearing.

(c) If the waiver is entered other than under a plea agreement, the court, without a hearing, shall enter an order exempting the respondent from registration under this chapter.

Is it Really a Bargain?

The only way to ethically play "Make a Deal" with the State is to know first what the Judge will generally do in these cases. For example, if you know the Judge regularly defers the decision until treatment is completed and your client is likely to complete treatment, the ADA offering you non-public registration is not really a "bargain" at all. If you don't know what the Judge's usual practice is, ask someone, like a public defender, a well-respected defense attorney, maybe even the probation officer. Asking the ADA is not a smart move. Offer lunch or something else in exchange for picking someone's brain and you will get a lot of useful information.

11. Effect of Certain Orders - Art. 62.356

(a) A person who has an adjudication of delinquent conduct that would otherwise be reportable under Art. 62.001(5) does not have a reportable adjudication of delinquent conduct for purposes of this chapter if the juvenile court enters an order under this subchapter exempting the person from the registration requirements of this chapter.

(b) If the juvenile court enters an order exempting a person from registration under this chapter, the respondent may not be required to register in this or any other state for the offense for which registration was exempted.

12. Appeal of Certain Orders - Art. 62.357

(a) Notwithstanding Section 56.01, Family Code, on entry by a juvenile court of an order under Art. 62.352(a) exempting a respondent from registration under this chapter, the prosecuting attorney may appeal that order by giving notice of appeal within the time required under Rule 26.2(b), Texas Rules of Appellate Procedure. The appeal is civil and the standard of review in the appellate court is whether the juvenile court committed procedural error or abused its discretion in exempting the respondent from registration under this chapter. The appeal is limited to review of the order exempting the respondent from registration under this chapter and may not include any other issues in the case.

(b) A respondent may under Sec. 56.01, Family Code, appeal a juvenile court's order under Art. 62.352(a) requiring registration in the same manner as the appeal of any other legal issue in the case. The standard of review in the appellate court is whether the juvenile court committed procedural error or abused its discretion in requiring registration.

Good luck. Either side can complain but it is abuse of discretion or procedural error.

Sec. 21.02. CONTINUOUS SEXUAL ABUSE OF YOUNG CHILD OR CHILDREN. (a) In this section, "child" has the meaning assigned by Section 22.011(c).

(b) A person commits an offense if:

(1) during a period that is 30 or more days in duration, the person commits two or more acts of sexual abuse, regardless of whether the acts of sexual abuse are committed against one or more victims; and

(2) at the time of the commission of each of the acts of sexual abuse, the actor is 17 years of age or older and the victim is a child younger than 14 years of age.

(c) For purposes of this section, "act of sexual abuse" means any act that is a violation of one or more of the following penal laws:

(1) aggravated kidnapping under Section 20.04(a)(4), if the actor committed the offense with the intent to violate or abuse the victim sexually;

(2) indecency with a child under Section 21.11(a)(1), if the actor committed the offense in a manner other than by touching, including touching through clothing, the breast of a child;

(3) sexual assault under Section 22.011;

(4) aggravated sexual assault under Section 22.021;

(5) burglary under Section 30.02, if the offense is punishable under Subsection (d) of that section and the actor committed the offense with the intent to commit an offense listed in Subdivisions (1)-(4); and

(6) sexual performance by a child under Section 43.25.

(d) If a jury is the trier of fact, members of the jury are not required to agree unanimously on which specific acts of sexual abuse were committed by the defendant or the exact date when those acts were committed. The jury must agree unanimously that the defendant, during a period that is 30 or more days in duration, committed two or more acts of sexual abuse.

(e) A defendant may not be convicted in the same criminal action of an offense listed under Subsection (c) the victim of which is the same victim as a victim of the offense alleged under Subsection (b) unless the offense listed in Subsection (c):

(1) is charged in the alternative;

(2) occurred outside the period in which the offense alleged under Subsection (b) was committed; or

(3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (b).

(f) A defendant may not be charged with more than one count under Subsection (b) if all of the specific acts of sexual abuse that are alleged to have been committed are alleged to have been committed against a single victim.

(g) It is an affirmative defense to prosecution under this section that the actor:

(1) was not more than five years older than:

(A) the victim of the offense, if the offense is alleged to have been committed against only one victim; or

(B) the youngest victim of the offense, if the offense is alleged to have been committed against more than one victim;

(2) did not use duress, force, or a threat against a victim at the time of the commission of any of the acts of sexual abuse alleged as an element of the offense; and

(3) at the time of the commission of any of the acts of sexual abuse alleged as an element of the offense:

(A) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or

(B) was not a person who under Chapter 62 had a reportable conviction or adjudication for an offense under this section or an act of sexual abuse as described by Subsection (c).

(h) An offense under this section is a felony of the first degree, punishable by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years.

TEXAS JUVENILE SEX OFFENDER RISK ASSESSMENT INSTRUMENT

Please read instructions on reverse prior to the completion of this instrument

PART I – GENERAL INFORMATION					
Date of Assessment:	Offender Name:	Gender:	SID#:	PID/TYC #:	Referral #:
Date of Birth:	Ethnicity:	Date of Offense:	Current Sex Offense:	Penal Code Citation:	
Evaluator's Name:		Title:		Location:	
Disposition Date:		Type of Disposition: <input type="checkbox"/> Probation At-Home <input type="checkbox"/> Determinate Sentence Probation <input type="checkbox"/> Certified <input type="checkbox"/> Non-Secure Placement <input type="checkbox"/> Secure Placement <input type="checkbox"/> TYC			

PART II - VARIABLES

	Score	Notes/Comments
1. CURRENT SEX OFFENSE:		
A. Seriousness of Sex Offense		
Felony 1	□	
Misdemeanor 0		
B. Use of Weapon in the Sex Offense		
Firearm/Cutting Instrument 2	□	
Other Weapon 1		
None..... 0		
<hr/>		
2. AGE AT FIRST REFERRAL		
10 Years of Age 2	□	
11 – 14 Years of Age 1		
15 Years of Age or Older 0		
<hr/>		
3. PRIOR ADJUDICATIONS FOR SEX OFFENSES		
2 or more prior adjudications for sex offenses 2	□	
1 prior adjudication for sex offense(s) 1		
No prior adjudications for sex offense..... 0		
<hr/>		
4. PRIOR REFERRALS FOR SEX OFFENSES		
2 or more prior referrals for sex offenses 2	□	
1 referral for a sex offense 1		
No referrals 0		
<hr/>		
5. PRIOR ADJUDICATIONS FOR FELONY OFFENSES		
2 or more prior adjudications for felony offenses 2	□	
1 prior adjudication for a felony offense(s) 1		
No prior adjudications for felony offense..... 0		
<hr/>		
6. PRIOR FELONY REFERRALS		

2 or more prior felony referrals 2

.....

1 felony referral 1

.....

No felony referrals 0

**DISPOSITION ON REGISTRATION STATUS
UN-REGISTRATION PROCESS**

- Full
 - Excuse
 - Non-Public
 - Deferred Until Completed Sex Offender Treatment
(JPO notifies court date treatment completed)
- Deferred Date: _____
- Treatment Completion Date: _____

Total Score

0 – 1	Low Range	1
2 – 5	Moderate Range	2
6 – 13	High Range	3

Assigned Risk Level

Judge's

Override
Signature of Judge or TDCJ Risk Assessment Committee Member

Date

Texas Juvenile Sex Offender Risk Assessment Instrument

INSTRUCTIONS

PART I: IDENTIFYING INFORMATION

Date of Assessment:	Enter month, day and year the assessment was completed.
Offender Name:	Enter offender's last name, first name and middle initial.
SID Number:	Enter offender's state identification number.
PID/TYC Number:	Enter offender's identification number.
Referral Number:	Enter offender's referral number.
Date of Birth:	Enter month, day and year of offender's birth.
Ethnicity:	Enter offender's ethnicity.
Date of Offense:	Enter the month, day and year of the current adjudicated sex offense and the corresponding penal code citation.
Current Sex Offense:	Enter current adjudicated sex offense.
Penal Code Citation:	Enter the Texas Penal Code Citation for the offense.
Evaluator's Name and Title:	Enter name of person completing the evaluation and his/her title.
Location:	Enter county and court of adjudication or name of secure facility in which the youth is placed at the time of assessment.
Disposition Date:	Enter date disposition hearing held.
Type of Disposition:	Check type of disposition as Probation At-Home or Non-Secure; Secure Placement; TYC; Determinate Sentence Probation; or Certified

PART II: RISK ASSESSMENT

- Current sex offense:** Juvenile's most recent adjudicated sex offense and now requires he/she register.
 - Seriousness of Offense: If the most recent adjudicated sex offense is a felony enter a "1" in the box. If the most recent adjudicated sex offense is a misdemeanor, enter a score of "0" in the box.
 - Use of Weapon: If the most recent adjudicated sex offense involved the use of a firearm or cutting instrument, enter a score of "2" in the box. If the sex offense involved the use of any other weapon which threatened or resulted in bodily injury enter a score of "1" in the box. If the sex offense did not involve the use of a weapon, enter a "0" in the box.
- Age at first referral:** Offender's age at the time he/she was referred to juvenile court for the first time.
 - If the offender was 10 years of age at the time of first juvenile referral, enter a score of "2" in the box at the right.
 - If the offender was 11 – 14 years of age at the time of the first juvenile referral, enter a score of "1" in the box.
 - If the offender was 15 years of age or older at the time of the first juvenile referral, enter a score of "0" in the box.
- Prior adjudications for sex offenses:** Adjudicated sex offenses occurring prior to the current or most recent adjudicated sex offense. Sex offenses are those for which adjudication requires sex offender registration. The count refers to the number of separate adjudication hearings at which the youth was adjudicated for a sex offense requiring registration and *not* to the number of offenses adjudicated.
 - If the offender had 2 or more prior adjudications for sex offenses, enter a score of "2" in the box.
 - If the offender had 1 prior adjudication for sex offense(s), enter a score of "1" in the score box.
 - If the offender has had no prior adjudications for sex offense, enter a score of "0" in the score box.
- Prior referrals for sex offenses:** The number of juvenile referrals for sex offenses the youth had prior to the current or most recent sex offense. Sex offenses are those for which adjudication requires sex offender registration. The number of referrals relates to the number of times the youth was referred to the juvenile court for a sex offense and *not* to the total number of offenses for which he was referred. The number entered must include referrals for sex offenses that were also previously adjudicated and counted in number 3 above.
 - If the offender had 2 or more prior referrals for a sex offense, enter the score of "2" in the box.
 - If the offender had 1 prior referral for a sex offense, enter the score of "1" in the box.
 - If the offender has no prior referrals for sex offenses, enter a score of "0" in the box.
- Prior adjudications for felony offenses:** All felony adjudications prior to the current or most recent sex offense. This includes adjudications for any felony offenses, sex related or non-sex related. The number entered refers to the number of separate adjudication hearings at which the youth was adjudicated for a felony offense and *not* to the number of offenses adjudicated.
 - If the offender has 2 or more prior adjudications for felony offenses, enter a score of "2" in the box.
 - If the offender has 1 prior adjudication for felony offense(s), enter a score of "1" in the box.
 - If the offender has no prior adjudications for felony offense, enter a score of "0" in the box.
- Prior felony referrals:** All felony referrals prior to the current offense. The number of referrals relates to the number of times the youth was referred to the juvenile court and *not* to the number of offenses for which he/she was referred. This may include referrals that were later adjudicated. This number entered must include referrals for felony offenses counted in numbers 3-5 above.
 - If the offender has 2 or more prior felony referrals, enter a score of "2" in the box.
 - If the offender has 1 prior felony referral, enter a score of "1" in the box.
 - If the offender has had no prior felony referrals, enter a score of "0" in the box.

Disposition or Registration Status: Check court action regarding Registration status: Full Registration, Excused or Exempt Registration, Non-Public Registration, or Deferred Registration until completed sex offender treatment and juvenile probation department notifies court of the date treatment was completed.

Total Score: Add the scores in each box and enter the sum in the box labeled "Total Score".

Assigned Risk Level: A score between 0 and 1 indicates that the person poses a low danger to the community and will not likely engage in criminal

sexual conduct. A score of 2-5 indicates that the person poses a moderate danger to the community and may continue to engage in criminal sexual conduct. A score of 6 – 13 indicates that the person poses a serious danger to the community and will continue to engage in criminal sexual conduct. Based on this risk assessment instrument, a low risk corresponds to a risk level “1”, a moderate risk corresponds to a risk level of “2”, and a high risk corresponds with a risk level of “3”. In the box to the right, enter a “1” for low-risk level, a “2” for a moderate-risk level, and a “3” for a high-risk level. The Court must enter the assignment of the risk level.

Signature/Date: The judge, or judicial designee, signs and dates the form on the day the offender is placed on probation.

Texas Juvenile Sex Offender Risk Assessment Instrument DATA COLLECTION FORM

The Texas Department of Criminal Justice (TDCJ) Risk Assessment Review Committee is aware that there may be other predictive variables for sexual recidivism and that other factors may need to be considered when developing community supervision strategies. This section focuses on variables found in the adult and juvenile sex offender literature that suggest a relationship to sexual recidivism. The following information is being collected to explore the relevancy and validity of these variables to future sexual reoffending.

Please complete all sections of the form. If the information is not applicable, enter N/A in the appropriate space. PLEASE PRINT OR TYPE. Completion instructions are on the back of this form. Upon completion, please submit this form within 10 days of the assessment of the juvenile sex offender, along with a copy of the juvenile's completed risk assessment instrument to:

Attention: Ana Aguirre **Phone (512) 424-6708**
Texas Juvenile Probation Commission **Fax (512) 424-6717**
PO Box 13547 **E-Mail**
Ana.Aguirre@TJPC.STATE.TX.US
Austin, Texas 78711

PART I					
Offender Name:		Gender:	SID#:	PID/TYC #:	Referral #:
Date of Birth:	Date of Offense:	Date of Assessment:	Current Sex Offense:		Penal Code Citation:
Name of Person Filling Out Form:		Title:		County:	
Department:				Phone Number:	
Disposition Date:		Type of Disposition:			
		<input type="checkbox"/> Probation At-Home <input type="checkbox"/> Determinate Sentence Probation <input type="checkbox"/> Certified <input type="checkbox"/> Non-Secure Placement <input type="checkbox"/> Secure Placement <input type="checkbox"/> TYC			

PART II									
1. CURRENT SEX OFFENSE: VICTIM INFORMATION <i>(List information for each victim identified in current offense)</i>									
	Age of Victim	Gender of Victim		Offender lives with Victim? <i>(Check Yes or No)</i>	Relationship of Victim to Offender <i>(Check applicable relationship)</i>				
					Relative <i>(specify relationship)</i>	Stranger		Acquaintan	
A. Victim 1		<input type="checkbox"/> Male	<input type="checkbox"/> Female	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Specify Relationship:			<input type="checkbox"/>	<input type="checkbox"/>
B. Victim 2		<input type="checkbox"/> Male	<input type="checkbox"/> Female	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Specify Relationship:			<input type="checkbox"/>	<input type="checkbox"/>
C. Victim 3		<input type="checkbox"/> Male	<input type="checkbox"/> Female	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Specify Relationship:			<input type="checkbox"/>	<input type="checkbox"/>
D. Victim 4		<input type="checkbox"/> Male	<input type="checkbox"/> Female	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Specify Relationship:			<input type="checkbox"/>	<input type="checkbox"/>
E. Victim 5		<input type="checkbox"/> Male	<input type="checkbox"/> Female	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Specify Relationship:			<input type="checkbox"/>	<input type="checkbox"/>
2. PRIOR SEX OFFENSE(S): VICTIM INFORMATION <i>(List victims identified in prior referrals or adjudications for sex offenses. IMPORTANT: If more than one prior offense exists, please include attachments so that ALL prior victims are identified.)</i>									
	Age of Victim	Gender of Victim		Offender lives with Victim? <i>(Check Yes or No)</i>	Relationship of Victim to Offender <i>(Check applicable relationship)</i>				
					Relative <i>(specify relationship)</i>	Stranger		Acquaintan	
A. Victim 1		<input type="checkbox"/> Male	<input type="checkbox"/> Female	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Specify Relationship:			<input type="checkbox"/>	<input type="checkbox"/>
B. Victim 2		<input type="checkbox"/> Male	<input type="checkbox"/> Female	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Specify Relationship:			<input type="checkbox"/>	<input type="checkbox"/>
C. Victim 3		<input type="checkbox"/> Male	<input type="checkbox"/> Female	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Specify Relationship:			<input type="checkbox"/>	<input type="checkbox"/>
D. Victim 4		<input type="checkbox"/> Male	<input type="checkbox"/> Female	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Specify Relationship:			<input type="checkbox"/>	<input type="checkbox"/>
E. Victim 5		<input type="checkbox"/> Male	<input type="checkbox"/> Female	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Specify Relationship:			<input type="checkbox"/>	<input type="checkbox"/>
3. OUT-OF-HOME PLACEMENT Did the offender have an out-of-home placement prior to current offense?				<input type="checkbox"/> Yes <input type="checkbox"/> No		Total # of Placements		Type	

4. SCHOOL BEHAVIOR Has the offender experienced the following:		Check Yes or No for Each		Number of Times	
Suspended from school?		<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Expelled from school?		<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Failed a grade in school?		<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Placement in a disciplinary alternative education program?		<input type="checkbox"/> Yes	<input type="checkbox"/> No		
5. MULTIPLE OFFENSES Did the offender have any referral or adjudication that contained multiple offenses? (Attach Info.)				<input type="checkbox"/> Yes <input type="checkbox"/> No	
O f f e n s e	Level (<i>Felony/Mis</i>)	Disposition	Disposition Date	Offense Date	Referral D
6. WEAPON USE If a weapon was used in the current sex offense and score of 1 or 2 was entered on item 1B, enter weapon used.					
7. Other object used to inflict pain/injury. If an object/instrument was used to inflict pain/injury on victim, enter object used. IMPORTANT: Other objects include, but are not limited to, hand, fist, foot, teeth, finger, penis, other foreign objects used to hurt the victim in anyway (measuring degree of violence).					

Texas Juvenile Sex Offender Risk Assessment Instrument

DATA COLLECTION FORM INSTRUCTIONS

PART I: IDENTIFYING INFORMATION

Offender Name:	Enter offender's last name, first name and middle initial.
Offender Gender:	Circle offender's appropriate gender.
PID/TYC Number:	Enter offender's identification number.
SID Number:	Enter offender's state identification number.
Referral Number:	Enter offender's referral number.
Date of Birth:	Enter month, day and year of offender's birth.
Date of Offense:	Enter the month, day and year of the current adjudicated sex offense.
Date of Assessment:	Enter month, day and year the assessment was completed
Current Sex Offense:	Enter current adjudicated sex offense.
Penal Code Citation.	Enter the Texas Penal Code Citation for the offense.
Name and Title of Person Filling Out Form:	Enter name and title of person completing the data collection form.
County:	Enter the name of the County where this form is being filled out.
Department:	Enter the name of the juvenile probation department submitting data.
Phone Number:	Enter phone number of person filling out Data Collection Form
Disposition Date:	Enter date disposition hearing held.
Type of Disposition:	Check type of disposition as Probation At-Home or Non-Secure; Secure Placement; TYC; Determinate Sentence Probation; or Certified

PART II: DATA

- 1. Current Sex Offense Victim Information:** This section is used to identify all victims in the current offense.
 - C. Number of Victims:** Some offenses may involve one victim and others might involve multiple victims. It is important to include information on all victims involved in the current offense although the offender might have been adjudicated for only one sex offense requiring registration. There is space to provide information on up to five victims. If more than five victims exist for the current offense, please include attachments.
 - D. Age of Victim:** Enter the age of each victim at the time the offense occurred.
 - E. Gender of Victim:** Identify the gender of each victim by entering an "M" for a male victim and an "F" for a female victim.
 - F. Offender Lives with Victim:** Check "Yes" if the offender resided with the victim; Check "No" if the offender did not reside with the victim at the time of the offense
 - G. Relationship to Victim:** This refers to the relationship of the victim to the offender. The relationships include relative, stranger and acquaintance. Check the appropriate box that describes the relationship as defined below.
 - **Relative:** A person related to the victim by blood, marriage or adoption. Enter relationship of the victim to the offender.
 - **Stranger:** A person that was not known to the victim. This is defined from the victim's point of view, not the offender's. If the victim has not known the offender for at least 24 hours, the stranger column is checked.
 - **Acquaintance:** A person known to the victim for at least 24 hours. An acquaintance is defined from the victim's point of view, not from that of the offender. If the offender knows the victim, but the victim has known the offender for less than 24 hours, the stranger column is checked.
- 2. Prior Sex Offense Victim Information: Number of Victims:** This section is to collect information about the victims of previous sexual offenses for which the offender was referred or adjudicated. It is not to be used to collect victim information revealed by the offender for incidents that were not referred or adjudicated. The offender's admissions regarding other victims in the course of the treatment should not be included in this section. This section requests the same information as in item one of Part II and should be completed as described above.
- 3. Out-of-Home Placement:** Specify what type and how many out-of-home placements (including foster care, emergency shelter, etc.). Out-of-home placement is defined as any admission to a public or private residential facility.

4. **School Behavior:** This section focuses on difficulties the offender has had in school by identifying whether, prior to the current offense, the offender has ever been suspended, expelled from school, been placed in an alternative school, or ever failed a grade in school. In-school suspensions are not to be included in the count. Check the appropriate column to answer each question regarding school problems and enter the number of suspensions, expulsions, placements into AEP and number of grades failed in the appropriate box.
5. **Multiple Offenses:** If the offender had any referrals or adjudications that contained multiple offenses within the referral or adjudication, please check "yes" and submit additional information on these offenses on a separate page.
6. **Weapon Use:** If a weapon was used in the index offense and a score of 1 or 2 was entered for 1B, enter type of weapon.
7. **Other object used to inflict pain/injury:** If an object or instrument was used to inflict pain or injury on victim, enter object used.

IN THE MATTER
OF

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IN THE 304TH DISTRICT COURT
DALLAS COUNTY, TEXAS
SITTING AS A JUVENILE COURT

**MOTION TO EXCUSE OR DEFER SEX OFFENDER REGISTRATION
OR IN THE ALTERNATIVE TO MAKE IT NONPUBLIC
(UNREGISTRATION)**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Respondent in the above styled and numbered cause, who files this Motion to Excuse or Defer Sex Offender Registration, or in the alternative, make his registration requirements “non-public” as provided in Texas Code of Criminal Procedure Article 62.351, and in support thereof would show the court as follows:

I.

Respondent was adjudicated delinquent for the offense of _____ which is covered under the sex offender registration laws by Article 62.001 of the Texas Code of Criminal Procedure.

II.

Respondent has not registered as a sex offender for said adjudication of delinquent conduct.

III.

Respondent is a suitable candidate for an order of this court excusing registration as a sex offender for the following reasons:

- (1) The protection of the public would not be increased by registration of the respondent as a sex offender, or
- (2) Any potential increase in protection of the public resulting from registration is clearly outweighed by the anticipated substantial harm to the respondent and the respondent’s family that would result from registration as a sex offender.

IV.

Respondent moves this Court to take judicial notice of or consider as a learned treatise the pamphlet entitled “Juveniles Who Have Sexually Offended, A Review of the Professional Literature”, published by the U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, which may be obtained through the Juvenile Justice Clearinghouse, P.O. Box 6000, Rockville, MD 20849-6000, 800/638-8736, www.puborder@ncjrs.org.

This paragraph is intended to comply with Article 62.351(b) of the Texas Code of Criminal Procedure in that it puts all

parties on notice of written matter which Respondent will request that the Court consider.

WHEREFORE, PREMISES CONSIDERED, Respondent requests a hearing on this motion and prays that this court excuse sex offender registration or, in the alternative, make his registration requirements “non-public” as authorized by Article 62.353 of the Texas Code of Criminal Procedure, and for such other relief requested herein or authorized by law.

Respectfully submitted,

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Motion was served on the District Attorney of Dallas County by personal delivery on the same date of filing herewith.

FIAT

The foregoing motion has been set for hearing before the District Court Judge for the 304th District Court at _____ o'clock ____ m. on the ____ day of _____, 200_.

Presiding Judge

CAUSE NUMBER _____

IN THE MATTER OF _____) (IN THE _____
) (_____ COUNTY, TEXAS
) (SITTING AS A JUVENILE COURT
DOB _____
SS# _____

ORDER EXCUSING SEX OFFENDER REGISTRATION
(UNREGISTRATION)

On this the ____ day of _____, 200__, in this court sitting as a Juvenile Court, came on to be heard Respondent’s Motion requesting that sex offender registration be excused, made nonpublic or deferred.

After due notice had been served on all parties, came and appeared _____, Respondent and his/her Attorney and parent as well as a representative of the District Attorney’s office or waiver of appearance is on file. All parties announced ready; and thereupon the Court, after hearing the pleadings of all parties and hearing the evidence and argument of counsel, makes the following finding:

- 1) The protection of the public would not be increased by registration of the Respondent under Chapter 62 of the Texas Code of Criminal Procedure; or
- 2) Any potential increase in protection of the public resulting from registration is clearly outweighed by any anticipated substantial harm to the Respondent and the Respondent’s family that would result from registration under Chapter 62 of the Texas Code of Criminal Procedure.

3) The following information identifies the Respondent in this cause

NAME _____
SEX _____
RACE _____
DATE OF BIRTH _____
DRIVERS LICENSE NUMBER _____
PERSONAL IDENTIFICATION NUMBER _____
SOCIAL SECURITY NUMBER _____
TRN _____

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Respondent shall be **excused** from all sex offender registration that would otherwise be required under Chapter 62 of the Texas Code of Criminal Procedure as a result of any adjudication in this cause.

IT IS FURTHER ORDERED that the District Clerk send a certified copy of this Order to: 1. Vincent Castilleja, Sex Offender Registration, Texas Department of Public Safety- MSC 0231, P.O. Box 4143, Austin, Texas 78765-4143, and

2. Ana Aguirre, Texas Juvenile Probation Commission, P.O. Box 13547, Austin, Texas, 78765, and

3. *(Local Law Enforcement Authority)*

SIGNED and **ENTERED** this the ____ day of _____, _____.

PRESIDING JUDGE

COURT

COUNTY, TEXAS

IN THE MATTER
OF

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IN THE 304TH DISTRICT COURT
DALLAS COUNTY, TEXAS
SITTING AS A JUVENILE COURT

**MOTION TO EXCUSE SEX OFFENDER REGISTRATION RETROACTIVELY
(DEREGISTRATION)**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Respondent in the above styled and numbered cause, who files this Motion to Excuse Sex Offender Registration Retroactively, or in the alternative, make his registration requirements “non-public” as provided in Texas Code of Criminal Procedure Article 62.353, and in support thereof would show the court as follows:

I.

Respondent’s date of birth is _____ and he is currently ___years of age. Respondent was adjudicated delinquent on the ___ day of _____, ___ for the offense of _____ which is covered under the sex offender registration laws by Article 62.001 of the Texas Code of Criminal Procedure.

II.

Respondent has registered as a sex offender for said adjudication of delinquent conduct as required by law.

III.

A previous motion has not been filed under Article 62.353(c) of the Texas Code of Criminal Procedure.

IV.

Those public and private agencies and organizations that possess sex offender registration information about this case are listed in Exhibit “A” and incorporated herein for all intents and purposes.

V.

Respondent is a suitable candidate for an order of this court excusing registration as a sex offender for the following reasons:

- (3) The protection of the public would not be increased by registration of the respondent as a sex offender, or
- (4) Any potential increase in protection of the public resulting from registration is clearly outweighed by the anticipated substantial harm to the respondent and the respondent’s family that would result from registration as a sex offender.

VI.

Respondent moves this Court to take judicial notice of or consider as a learned treatise the pamphlet entitled "Juveniles Who Have Sexually Offended, A Review of the Professional Literature", published by the U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, which may be obtained through the Juvenile Justice Clearinghouse, P.O. Box 6000, Rockville, MD 20849-6000, 800/638-8736, www.puborder@ncjrs.org. This paragraph is intended to comply with Article 62.351(b) of the Texas Code of Criminal Procedure in that it puts all parties on notice of written matter which Respondent will request that the Court consider.

WHEREFORE, PREMISES CONSIDERED, Respondent requests a hearing on this motion and prays that this court excuse sex offender registration or, in the alternative, make his registration requirements "non-public" as authorized by Article 62.353 of the Texas Code of Criminal Procedure, and for such other relief requested herein or authorized by law.

Respectfully submitted,

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Motion was served on the District Attorney of Dallas County by personal delivery on the same date of filing herewith.

FIAT

The foregoing motion has been set for hearing before the District Court Judge for the 304th District Court at _____ o'clock ____ m. on the ____ day of _____, 200_.

Presiding Judge

JD-_____ -W-304TH

IN THE MATTER

OF

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IN THE 304TH DISTRICT COURT

DALLAS COUNTY, TEXAS

SITTING AS A JUVENILE COURT

ORDER EXCUSING SEX OFFENDER REGISTRATION
(DEREGISTRATION)

On this the ___ day of _____, 200_, in this court sitting as a Juvenile Court, came on to be heard Respondent's Motion requesting that sex offender registration be excused or made nonpublic.

After due notice had been served on all parties, came and appeared Respondent, his Attorney, as well as a representative of the District Attorney's office. All parties announced ready. After hearing the evidence presented by both parties, the Court makes the following findings:

- 1) Respondent has registered as a sex offender for an adjudication of delinquent conduct, and
- 2) A previous motion under Article 62.353(c) of the Texas Code of Criminal Procedure has not been filed concerning this case, and
- 3) The protection of the public would not be increased by registration of the Respondent under Chapter 62 of the Texas Code of Criminal Procedure, or
- 4) Any potential increase in protection of the public resulting from registration is clearly outweighed by any anticipated substantial harm to the Respondent and the Respondent's family that would result from registration under Chapter 62 of the Texas Code of Criminal Procedure.
- 5) The following information identifies the Respondent in this cause:

NAME:
SEX :
RACE:
DOB:
DPS NUMBER:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Respondent shall be **excused** from all registration that would otherwise be required under Chapter 62 of the Texas Code of Criminal Procedure as a result of any adjudication in this cause.

IT IS FURTHER ORDERED that the Clerk of this Court send a copy of this order to each of the agencies and organizations listed in Exhibit “A”, attached hereto and incorporated herein for all intents and purposes.

IT IS FURTHER ORDERED that each of the agencies and organizations listed in Exhibit “A” shall conform its records to this order by **deleting all sex offender registration information**, on or before the 30th day after the date of the entry of this order. **Failure to comply with this order during the above-stated time period automatically bars a private agency or organization from obtaining sex offender registration information from any state, county, or local governmental entity in this state in the future.**

IT IS FURTHER ORDERED that the District Clerk send a certified copy of this Order to:

1. Vincent Castilleja, Sex Offender Registration, Texas Department of Public Safety-
MSC 0231, P.O. Box 4143, Austin, Texas 78765-4143, and
2. Ana Aguirre, Texas Juvenile Probation Commission, P.O. Box 13547, Austin, Texas,
78765.
3. *[local law enforcement agency for your Respondent.]*

Nothing in this order shall be construed as to allow deletion or destruction of the criminal record of Respondent, which is kept by law enforcement agencies for purposes other than sex offender registration.

Nothing in this order shall be construed as to allow deletion or destruction of information kept by schools pursuant to Article 15.27 Texas Code of Criminal Procedure.

SIGNED and **ENTERED** this the ____ day of _____, 200_.

PRESIDING JUDGE

CAUSE NUMBER _____

IN THE MATTER OF _____) (IN THE _____
) (_____ COUNTY, TEXAS
_____) (SITTING AS A JUVENILE COURT

SEX OFFENDER REGISTRATION ORDER
(RETROACTIVE NONPUBLIC REGISTRATION)

On this the ____ day of _____, _____, in this court sitting as a Juvenile Court, came on to be heard Respondent's Motion requesting that sex offender registration be excused or made nonpublic.

After due notice had been served on all parties, _____ came and appeared _____, Respondent and his/her Attorney and parent as well as a representative of the District Attorney's office or waiver of appearance is on file. All parties announced ready; and thereupon the Court, after hearing the pleadings of all parties and hearing the evidence and argument of counsel, makes the following finding:

- 1) Respondent has registered as a sex offender for an adjudication of delinquent conduct, and
- 2) A previous motion under Article 62.353 of the Texas Code of Criminal Procedure has not been filed concerning this case, and
- 3) The protection of the public would not be increased by public registration of the Respondent under Chapter 62 of the Texas Code of Criminal Procedure, or
- 4) Any potential increase in protection of the public resulting from public registration is clearly outweighed by any anticipated substantial harm to the Respondent and the Respondent's family that would result from public registration under Chapter 62 of the

Texas Code of Criminal Procedure.

- 5) The following information identifies the Respondent in this cause

NAME _____
SEX _____
RACE _____
DATE OF BIRTH _____
DRIVERS LICENSE NUMBER _____
PERSONAL IDENTIFICATION NUMBER _____
SOCIAL SECURITY NUMBER _____
TRN _____

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Respondent shall continue to register as a sex offender under Chapter 62 of the Texas Code of Criminal Procedure; however, said registration shall be made **nonpublic**. Respondent's sex offender registration information is not public information and is restricted to use by law enforcement and criminal justice agencies. Said information may not be posted on the Internet or released to the public.

IT IS FURTHER ORDERED that the Clerk of this Court send a copy of this order to each of the agencies and organizations listed in Exhibit "A", attached hereto and incorporated herein for all intents and purposes.

IT IS FURTHER ORDERED that each of the agencies and organizations listed in Exhibit "A" shall conform its records to this order by **changing sex offender registration information ONLY**, to nonpublic on or before the 30th day after the date of the entry of this order. Each **private** agency is **ORDERED** to delete or destroy all sex offender registration information regarding the respondent on or before the 30th day after the date of the entry of this order.

IT IS FURTHER ORDERED that the District Clerk send a certified copy of this Order to:

1. Vincent Castilleja, Sex Offender Registration, Texas Department of Public Safety-MSC 0231, P.O. Box 4143, Austin, Texas 78765-4143, and
2. Ana Aguirre, Texas Juvenile Probation Commission, P.O. Box 13547, Austin, Texas, 78765, and
3. **(Local Law Enforcement Authority)**

Failure to comply with this order during the above-stated time period automatically bars a private agency or organization from obtaining sex offender registration information from any state, county, or local governmental entity in this state in the future.

Nothing in this order shall be construed as to allow deletion or destruction of information kept by schools pursuant to Article 15.27 Texas Code of Criminal Procedure.

SIGNED and ENTERED this the _____ day of _____, _____.

PRESIDING JUDGE

COURT

COUNTY, TEXAS

**Sample to be attached to Motion and Order
Per the Code, each agency costs \$20.00 Art. 62.353(f)**

The County Clerk may charge a different fee. In Dallas County the clerks charge \$1.00 per page to send out the order and do not charge the \$20.00 fee per agency. DPS is not listed because that is automatic per the Code. These are the agencies DPS indicated had purchased my client's sex offender registration information.

**EXHIBIT "A"
ORDER EXCUSING
SEX OFFENDER REGISTRATION**

1. DeSoto Police Department
714 E. Beltline Road
DeSoto, TX 75115
2. Allied Resident/Employee Screening Service, Inc.
4230 LBJ Freeway, Suite 407
Dallas, Texas 75244
3. Amrent
9990 Richmond, Suite 100
Houston, TX 77042
4. Averitt Corporation
PO Box 1167
Stanton, TX 79782-1167
5. Backgroundchecks.com
1425 Greenway Drive, Suite 515
Irving, TX 75038
6. Background Information Systems, Inc.
10501 N. Central Expressway, Suite 309
Dallas, TX 75231
7. Credit Bureau Reports
PO Box 36403
Houston, TX 77236-6403
8. Dallas Computer Service, Inc.
500 North Central Expressway, Suite 280
Plano, TX 75074
9. Data Intelligence Group
PO Box 1448
Little Elm, TX 75068
10. First Contact
12750 Merit Drive, Suite 1434
Dallas, TX 75251
11. Intelligent Data Source, L.P.
8350 N. Central Expressway, Suite 600
Dallas, TX 75206
12. Lexis-Nexis
9555 Springboro Pike
Miamisburg, OH 45342

13. National Tenant Network
360 Oaks Trail, Suite 120
Garland, TX 75043
14. Online Data Services
8554 Katy Freeway, Suite 321
Houston, TX 75043
15. Predator Check Inc.
7200 Almeda Road, #504
Houston, TX 77054
16. Rentport, Inc.
5889 S. Greenwood Plaza Blvd., Suite 201
Greenwood Village, CO 80111
17. Resident Data, Inc.
1210 E. Campbell Road, Suite 118
Richardson, TX 75081
18. Save Our Texsons
17601 Preston Road, #102
Dallas, TX 75252
19. Tenant Tracker, Inc.
1550 Bray Central Drive
McKinney, TX 75069
20. Wal-Mart Corporate Office
702 SW 8th Street
Bentonville, AR 72716-0110