

JUVENILE SEX OFFENDER REGISTRATION OUTLINE

Underlined materials are new as of 2001.

I. STATUTES

- A. **CODE OF CRIMINAL PROCEDURE**
Chapter 62 (Sex Offender Registration)
- B. **FAMILY CODE**
Section 54.0405 (Condition of Probation)
- C. **HUMAN RESOURCES CODE**
Section 61.0813 (Condition of Parole)
- D. **GOVERNMENT CODE**
Section 411.135 (Public Access)
- E. **TRANSPORTATION CODE**
Section 521.033 (Commercial License)
Section 521.222 (Instruction Permit)
Section 521.223 (Hardship License)
Section 521.272 (License Renewal)
Section 521.274 (Renewal by Mail)
Section 522.103 (Renewal for Sex Offender)

II. CASE LAW

- A. The sex offender statute as it applies to juveniles has survived the following **constitutional** attacks:
 - 1. DUE PROCESS
 - a. Reputation is not a liberty interest
 - b. No need to make a finding that the person is a threat to the public
 - c. In the Matter of M.A.H., 20 S.W.3d 860 (Tex. App. – Fort Worth 2000)
 - d. In the Matter of R.M., UNPUBLISHED, 2001 Tex. App. LEXIS 6497 (Tex. App. San Antonio Sept. 26, 2001)
 - 2. EQUAL PROTECTION - In the Matter of M.A.H.
- B. Failure of the Judge to admonish a juvenile on sex offender registration was not fundamental error. - In the Matter of R.M.
- C. Sex Offender Registration is remedial rather than punitive, and its consequences are collateral. - In the Matter of R.M.

III. "REPORTABLE ADJUDICATION" – Article 62.01(5) CCP

- A. Adjudication for any of the following offenses:
 - 1. Indecency with a Child – 21.11 P.C.
 - 2. Sexual Assault - 22.011 P.C.
 - 3. Aggravated Sexual Assault – 22.021 P.C.
 - 4. Prohibited Sexual Conduct – 25.02 P.C.
 - 5. Compelling Prostitution – 43.05 P.C.
 - 6. Sexual Performance by a Child – 43.25 P.C.
 - 7. Possession or Promotion of Child Pornography – 43.26 P.C.
 - 8. Aggravated Kidnapping if committed with the intent to violate or abuse victim sexually – 20.04(a)(4) P.C.
 - 9. Burglary of a Habitation if committed with the intent to commit 1, 2, 3, 4, or 8 above – 30.02 P.C.
 - 10. Attempt, Conspiracy, or Solicitation to commit an offense listed above

- B. Adjudication for an offense listed below plus an affirmative finding in the adjudication order that the victim or intended victim was younger than 17 years of age at the time of the offense:
 - 1. Unlawful Restraint – 20.02 P.C.
 - 2. Kidnapping – 20.03 P.C.
 - 3. Aggravated Kidnapping – 20.04 P.C.
 - 4. Attempt, Conspiracy, or Solicitation to commit an offense listed above.
 - 5. SEXUAL INTENT IS NOT REQUIRED

- C. Second adjudication for indecent exposure – 21.08 P.C.

- D. Adjudication of delinquent conduct under the laws of another state or federal laws if the **elements are substantially similar** to those offenses listed above.
 - 1. Department of Public Safety decides if an offense is substantially similar - 62.0101(a) C.C.P.
 - 2. Appeal of decision is brought in a District Court in Travis County. -62.0101(b) C.C.P.

- E. Second adjudication of delinquent conduct under the laws of another state or federal law if the elements are substantially similar the elements of Indecent Exposure.

- F. No longer a reportable adjudication if an order is entered excusing registration pursuant to 62.13 C.C.P.

- G. DPP is not a reportable adjudication.

- H. The duty to register is not affected by appeal or pardon unless:
 - 1. The adjudication is set aside on appeal, or
 - 2. The pardon is based on subsequent proof of innocence
 - 3. 62.01(5) C.C.P.

IV. REGISTRATION - Article 62.02 C.C.P.

- A. A PERSON SHALL REGISTER IF THEY HAVE A "REPORTABLE ADJUDICATION" – 62.02 C.C.P.
- B. REGISTRATION BEGINS when the person is:
 - 1. Placed on juvenile probation
 - 2. Released from TYC
 - 3. Released from a secure local facility
 - 4. 62.03(a) and (c) C.C.P.
- C. INITIAL REGISTRATION – 62.03 C.C.P.
 - 1. If the person is placed on probation, the probation officer or other person designated by the court completes the registration form.
 - 2. If the person is released from TYC, an official of TYC completes the registration form.
 - 3. If the person is released from a secure local facility, an official from that facility completes the registration form.
- D. REGISTRATION FORM – 62.02 C.C.P.
 - 1. DPS provides TDCJ, TYC, TJPC, and each local law enforcement authority, county jail, and court with a form for registration that requires identifying information about the offender and offense as well as a photograph and fingerprints.
 - 2. 2001 additions to the form include:
 - a. A recent color photograph or, if possible, an electronic digital image, and
 - b. An indication of each occupational license that is held or sought by the person.
 - 3. A copy of the Registration Form is attached to this outline.
- E. REGISTRATION WITH DPS AND LOCAL LAW ENFORCEMENT
 - 1. TYC shall send the registration form and risk level to DPS and the applicable local law enforcement authority 7 days prior to release. - 62.03(b) C.C.P.
 - 2. The probation officer shall send the registration form and risk level to DPS and applicable local law enforcement authority on the day the probation order is entered. – 62.03(c) C.C.P.

F. PRERELEASE NOTIFICATION – TYC – 62.03(a) C.C.P.

Before releasing the person from TYC or a secure local facility, an official of that facility shall:

1. Determine the risk level of the person,
2. Inform the person of duties concerning registration, – 62.03(a)(1) C.C.P.
3. Have the person sign a statement that the person was informed of the duties,
4. Obtain an address where the person expects to reside,
5. Obtain registration information, including photograph and fingerprints,
6. Complete the registration form, and
7. Send the completed registration form and risk level to DPS and the applicable local law enforcement authority 7 days prior to release.

G. PRERELEASE NOTIFICATION – PROBATION – 62.03(c) C.C.P.

1. The Court determines the risk level of the person.
2. The probation officer or person designated by the court is responsible for registration and prerelease notification.
3. Duties of the probation officer include:
 - a. Inform the person of duties concerning registration, – 62.03(a)(1)
 - b. Have the person sign a statement that the person was informed of the duties,
 - c. Obtain an address where the person expects to reside,
 - d. Obtain registration information, including photograph and fingerprints,
 - e. Complete the registration form,
 - f. Send the completed registration form and risk level to DPS and the applicable local law enforcement authority on the day the probation order is entered.

V. VERIFICATION

A. PROCEDURES

1. Verification requires reporting in person to the appropriate authority.
2. The local law enforcement authority shall require proof of the person's identity and residence before giving the registration form to the person for verification. – 62.02(b) C.C.P.

B. VERIFICATION AFTER RELEASE

1. The person must verify registration with the local law enforcement authority in any municipality (or county, if there is not a municipality) where the person resides. – 62.02(a) C.C.P.
2. Verification must be made not later than the 7th day after release from TYC or a secure local facility or being placed on probation. - 62.02(a) C.C.P.
3. If the person does not move to the intended address within 7 days, the person shall report to the probation officer or parole officer within 7 days of release or moving from the previous address. - 62.02(f) C.C.P.
4. The person must provide the officer with a temporary address. - 62.02(f) C.C.P.
5. The person must report at least weekly until moving to a permanent address. - 62.02(f) C.C.P.
6. The local law enforcement authority must forward registration information to DPS within 3 days - 62.02(c) C.C.P.

C. ANNUAL VERIFICATION

1. The person must report annually to the local law enforcement authority to verify registration. - 62.06 C.C.P.
2. Annual verification must be within 30 days before or 30 days after the person's birth date. - 62.06 C.C.P.
3. 90 day verification does not apply to juveniles.

D. CHANGE OF ADDRESS

1. The person must verify registration with the local law enforcement authority where the person resides or intends to reside for more than 7 days. - 62.02(a) C.C.P.
2. This includes any change of address, even within the same jurisdiction
3. Intend to move – The person must report in person to the juvenile probation officer or parole officer and the local law enforcement authority with whom the person last registered 7 days before moving. - 62.04 C.C.P.
4. Moves – The person must report to the new local law enforcement authority within 7 days of moving. - 62.04 & 62.02(a) C.C.P.
5. Intends to move, but doesn't – The person must report to the last law enforcement authority within 7 days of the anticipated move, and report to the probation officer or parole officer at least weekly. – 62.04 C.C.P.
6. The probation officer or parole officer shall forward the information to the appropriate local law enforcement authorities within 3 days. - 62.04 C.C.P.

7. The local law enforcement authority shall forward information to DPS and the new local law enforcement authority within 3 days. - 62.04 C.C.P.
 8. DPS shall notify the new law enforcement authority within 3 days. - 62.04 C.C.P.
- E. VISITOR – 62.02 C.C.P.
1. If on at least 3 occasions during any month the person spends more than 48 consecutive hours in a municipality or county other than where the person is registered, then the person shall report to the local law enforcement authority of the municipality or county visited.
 2. The person shall report before the last day of that month.
 3. No additional public or school notification is required.
- F. CHANGE IN STATUS
1. The person must report to the local law enforcement authority, any change in health or job status within 7 days of the change. - 62.05(b) C.C.P.
 2. Change in health – The person is hospitalized as a result of illness. - 62.04(a) C.C.P.
 3. Change in job – The person leaves employment, changes location of employment or begins new employment. - 62.04(b) C.C.P.
 4. The probation officer or parole officer shall promptly notify the local law enforcement agencies of any change in the person's status that affects proper supervision of the person. - 62.05(a) C.C.P.
 5. Change in status includes changes in health, job, incarceration, and terms of release as well as change of address. - 62.05(a) C.C.P.
- G. VERIFICATION AT THE REQUEST OF LAW ENFORCEMENT – 62.06(d)
1. A law enforcement authority with whom a person is required to register may at any time mail a verification form to the person.
 2. The person shall complete and sign the form and return the form to the authority within 21 days.

VI. OUT-OF-STATE REGISTRANTS

- A. NO REPORTABLE ADJUDICATION – 62.021 C.C.P.
1. Juveniles **adjudicated under the laws of another state** with which DPS has entered into a reciprocal registration agreement, or under federal law, under the Uniform Code of Military Justice who would not otherwise have to register in this state, must comply with the annual verification requirements of 62.06 if

the law of the other state or the federal law or the Uniform Code of Military Justice requires registration.

2. The duty to register expires when it would have expired under the laws of the other state or under federal law or under the Uniform Code of Military Justice.

B. REPORTABLE ADJUDICATION

1. If the person has a **reportable adjudication out of another state** and is being supervised in Texas under the uniform Interstate Compact on Juveniles (Chapter 60), the commission, vendor, probation department or facility shall conduct the prerelease notification and registration requirements on the date the person is placed under their supervision. - 62.03(d) C.C.P.
2. If a person **moves to another state that has a registration requirement** for sex offenders, the person shall register with the law enforcement authority designated by that state to receive registration information within 10 days. - 62.04(c) C.C.P.
3. If a person **moves out of state**, DPS immediately informs the appropriate agency in that state, and sends the registration form, including the record of conviction and fingerprints to the FBI. - 62.04(i) C.C.P.

C. WORKERS AND STUDENTS

1. Employment - 62.011 C.C.P.
 - a. Works full-time or part-time for a consecutive period exceeding 14 days, or
 - b. Works for an aggregate period exceeding 30 days in a calendar year.
 - c. Whether the person works for compensation or for governmental or educational benefit.
2. Student – 62.011 C.C.P.
 - a. Enrolled in any educational facility
 - b. Public or private
 - c. Primary, secondary or higher
 - d. Technical or trade
3. If a person with a reportable adjudication **lives in this state, but works or is a student in another state** that has a registration requirement for sex offenders, the person shall register with the law enforcement authority that is identified by DPS not later than 10 days after beginning work or school. - 62.03(g) C.C.P.
4. If a person with a reportable adjudication **lives in another state, but is employed or is a student in this state**, the person shall register pursuant to Chapter 62 in the municipality or county where the person works or attends school. - 62.061 C.C.P.
5. The person is subject to school notification requirements to the school officials where the person works or attends school unless the person resides in this state. - 62.061 (b) C.C.P.

VII. PUBLIC NOTIFICATION

A. PUBLIC ACCESS

1. Any person is entitled to obtain information described as public information under Chapter 62 including photo. – 411.135 Govt. Code
2. DPS must respond to an electronic request. – 411.135 Govt. Code
3. Local law enforcement authority must respond to written request. – 62.08 C.C.P.

B. DPS DATABASE – 62.08 C.C.P.

1. DPS shall maintain a computerized central database containing only sex offender registration information.
2. The database is public information, except for the person's SS number, DL number, or telephone number, or any information that would identify the victim.
3. Information listed in 62.02(b) is kept in the database.
4. DPS shall post the information on the website along with updated photographs obtained through yearly driver's license registration and renewal.
5. DPS shall develop a procedure whereby, if a law enforcement officer provides DPS with a driver's license number, personal identification certificate, or license plate number, he is automatically provided information about whether the person related to those numbers has a duty to register. - 62.085 C.C.P.

C. NEWSPAPER NOTIFICATION

1. Juveniles sex offenders are not published in the newspaper. – 62.03(e) C.C.P.
2. Adult sex offenders are published in the newspaper if the victim is under age 17.

D. LEVEL THREE NOTIFICATION

1. Risk Assessment Levels – 62.035 C.C.P.
 - a. The Texas Department of Criminal Justice establishes a risk assessment review committee.
 - b. The Review Committee selects a sex offender screening tool.
 - c. The Review Committee functions in an oversight capacity.
 - d. The risk levels are as follows:

Level One – Low danger to the community and will not likely engage in criminal sexual conduct

Level Two – Moderate danger to the community and may continue to engage in criminal sexual conduct

Level Three – Serious danger to the community and will continue to engage in criminal sexual conduct

e. The Review Committee, Texas Department of Criminal Justice, Texas Youth Commission or a court may override a risk level only if the entity:

- believes that the risk level is not an accurate prediction of the risk, and
- documents the reason for the override

f. Juvenile records, even if sealed, may be considered in determining a person's risk level. – 62.035(e)

2. If a person assigned a risk level of three is due to be released from TYC or placed on juvenile probation or intends to move: - 62.045 C.C.P.

- a. DPS shall mail written notice to each residential address within a one-mile radius, if the area is not subdivided, or a three-block area, if the area is subdivided, of the place where the person intends to reside.
- b. Notice must be within 7 days of release or being placed on probation.
- c. Notice must be within 10 days after the person moves.
- d. Notice will be in English and Spanish.
- e. Notice includes any public information.
- f. Juvenile does not have to pay for the notification.

3. Local law enforcement authority may provide notice to the public in any manner determined appropriate by the law enforcement authority if the person is assigned a level three risk including:

Neighborhood meetings
Flyers
Internet

4. Property owners and their agents do not have to disclose registration information to prospective buyers or lessees. - 62.045 C.C.P.

E. SCHOOL NOTIFICATION

1. If the victim is younger than 17 **or** the person registering is 17 or older.

2. The local law enforcement authority shall immediately notify by mail:

- a. The superintendent of the public school district in which the person subject the registration intends to reside, and
- b. 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.

3. This notice is separate from notice pursuant to 15.27 C.C.P.

4. The notice shall include any information the authority determines is necessary to protect the public, except: - 62.03(g) C.C.P.
 - a. The person's social security number, DL number, or telephone number, and
 - b. Any information that would identify the victim
5. The superintendent shall release the information to appropriate school district personnel, including peace officers, security personnel, principals, nurses, and counselors.
6. Administrator of a private school can release information to the public. - 62.09(d) C.C.P.
7. If a person moves to a new municipality or county, the local law enforcement authority shall notify the appropriate school authorities. - 62.04(f) C.C.P.
8. No additional school notification is required if a person registers as a visitor. - 62.062 C.C.P.

VIII. DRIVER'S LICENSE

- A. The person shall apply to DPS in person for issuance of a driver's license or personal identification certificate or commercial driver's license or commercial driver learner's permit within 30 days of release or being placed on probation. - 62.065 C.C.P.
- B. The person shall renew his license annually as long as the person is required to register. - 62.065 C.C.P.
- C. The yearly updated photos shall be used by DPS on the sex offender Internet website and in the database. - 62.08 C.C.P.
- D. Must renew license in person. - 521.274 Trans. Code
- E. Nothing appears on the face of the license indicating that the person is a sex offender.
- F. Sex offender can obtain Driver's Instruction permit but must include photo. - 521.222 Trans. Code
- G. Sex offender can obtain Hardship License, but must include photo. - 521.223 Trans. Code

IX. OCCUPATIONAL LICENSE – 62.08 C.C.P.

- A. "LICENSE" – license, certificate, registration, permit, or other authorization issued by a licensing authority, that a person must obtain to practice or engage in a particular business, occupation, or profession.
- B. DPS shall provide notice of registration to the appropriate licensing authorities that are indicated on the registration or verification forms. – 62.08(d) C.C.P.

- C. DPS shall provide notice to a licensing authority upon written request, if the person is an applicant or holder of a license. - 62.08(e) C.C.P.

X. IMMUNITY

- A. Law enforcement and private and public school officials are immune from liability for damages for release of public information under Chapter 62. - 62.09 C.C.P.
- B. Employees of TDCJ, TYC, TJPC, DPS, and a juvenile probation department and members of the judiciary are immune from liability for good faith conduct under Chapter 62. - 62.091 C.C.P.

XI. FAILURE TO REGISTER – 62.10 C.C.P.

- A. A person commits an offense if the person is required to register and fails to comply with any requirement of Chapter 62
- B. STATE JAIL FELONY – If the duty to register is based on an adjudication of delinquency.
- C. THIRD DEGREE FELONY – If previously “convicted” under 62.10 C.C.P.

XII. CONDITION OF PROBATION – 54.0405 F.C.

- A. If a juvenile is placed on probation for a reportable adjudication, the judge shall order the person to register as a condition of probation.
- B. This is subject to an order excusing or deferring registration pursuant to 62.13.

XIII. CONDITION OF PAROLE – 61.0813 H.R.C.

- A. If a juvenile is placed on parole for a reportable adjudication, the Texas Youth Commission shall require the person to register as a condition of release.
- B. This is subject to an order excusing or deferring registration pursuant to 62.13.

XIV. LENGTH OF REGISTRATION

- A. Until the 10th anniversary of the date on which the person completes the terms of disposition. – 62.12(b)(1) C.C.P.
 - 1. Completes probation
 - 2. Discharged from TYC parole
 - 3. Discharged from TDCJ – ID parole
- B. Or, until the court enters an order excusing registration under Article 62.13.
- C. A juvenile never has to register for life. - 62.12(a) C.C.P.
 - 1. This was clarified by a 2001 amendment

2. Definition of "sexually violent offense" requires that the offense be committed when the person was 17 or older – 62.01 (6) C.C.P.

XV. EXCUSING REGISTRATION – 62.13 C.C.P.

A. UNREGISTRATION

1. After disposition, before the person has registered.
2. Applies to the following that were pending on September 1, 2001:
 - a. Adjudication
 - b. Disposition
 - c. Person in TYC and had not been released
 - d. Person in TDCJ-ID and had not been released
3. Options for the court after an unregistration hearing 62.13(p):
 - a. Deferral of Registration until completion of a sex offender treatment program while on probation or at TYC - 62.13(j) C.C.P.
 - b. Nonpublic Registration - 62.13(k) C.C.P.
 - c. Excuse Registration
 - d. Registration

B. DEREGISTRATION

1. After the juvenile has registered.
2. Applies retroactively to any registered juvenile.
3. Respondent may be over 18 - 62.13(m) C.C.P.
4. There is no time limit on filing the motion.
5. Options for the court after a deregistration hearing:
 - a. Excuse Registration
 - b. Nonpublic Registration
 - c. Continue Registration
 - d. Deferral of registration is **not** an option
 - e. No right to court appointed attorney

C. PROCEDURES

1. On the motion of the respondent. - 62.13(b) C.C.P.
2. Only one motion can be filed. - 62.13(n) C.C.P.
3. File in the same cause number as the adjudication.
4. File a separate motion for each adjudication.

5. Notice to the prosecuting attorney. - 62.13(m) C.C.P.
6. Motion shall identify agencies and organizations that possess sex offender registration information. - 62.13(o) C.C.P.
 - a. Local law enforcement agencies
 - b. DPS
 - c. Private Organizations
 - d. Schools
 - e. Occupational Licensing Authorities
7. Hearing can be waived by the state. - 62.13(f) C.C.P.
8. Written materials considered by the court shall be disclosed to all parties. - 62.13(d) C.C.P.

D. THE HEARING

1. No right to a jury. - 62.13(c) C.C.P.
2. Respondent has the burden of persuasion. – 62.13(c) C.C.P.
3. Burden of proof is by a preponderance of the evidence. - 62.13(c) C.C.P.
4. Evidence – 62.13(c) C.C.P.
 - a. The receipt of exhibits;
 - b. The testimony of witnesses;
 - c. Representations of counsel for the parties; or
 - d. 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.

E. THE TEST – 62.13(e) C.C.P.

1. The court shall enter an order excusing registration if:
 - a. The protection of the public would not be increased by registration, or
 - b. Any potential increase in protection of the public is clearly outweighed by the anticipated substantial harm to the respondent and the respondent's family that would result from registration

F. WAIVER OF HEARING – 62.13(f) C.C.P.

1. State can waive a hearing and agree that registration is not required.
2. If part of plea bargain, Judge can require a hearing. Then the juvenile may withdraw plea.
3. If not part of a plea bargain, the judge shall enter an order excusing registration without a hearing.

4. Waiver must state whether or not it is part of a plea agreement.

G. PLEA AGREEMENT

1. The respondent may, as part of a plea agreement, promise not to file a motion seeking an order excusing registration, in which case the court may not recognize the motion. - 62.13(f) C.C.P.

H. APPEAL

1. State has right to appeal - 62.13(g) C.C.P.

- a. Notice within 15 days of entry of order. - 26.2(b) T.R.A.P.
- b. Cannot appeal nonpublic or deferral decision.
- c. Appeal limited to issue of registration.
- d. Standard of review: procedural error or abuse of discretion.
- e. Only situation in which the state has the right to appeal in juvenile cases.

2. Respondent has right to appeal – 62.13(h)

- a. Chapter 56 Appeal.
- b. Cannot appeal nonpublic or deferral decision.
- c. Standard of review: procedural error or abuse of discretion.

I. THE ORDER

- 1. A copy of the order shall be sent to each agency and organization in possession of sex offender information. - 62.13(q) C.C.P.
- 2. Require the organization to conform records to order. - 62.13(q) C.C.P.
- 3. Private Agency must conform within 30 day of entry of order or lose privilege of obtaining information in the future. - 62.13(r) C.C.P.
- 4. Send a copy of the order to:

Vincent Castilleja
Sex Offender Registration
Texas Department of Public Safety-MS 0231
PO Box 4143
Austin TX 78765-4143

- 5. Index of sex offender Internet registries can be found at www.prevent-abuse-now.com/register.htm
- 6. List of organizations that have purchased the database can be obtained from:

Charlene Cain
DPS – Policy and Databases
512-424-2090 Charlene.Cain@txdps.state.tx.us
<http://records.txdps.state.tx.us>

CODE OF CRIMINAL PROCEDURE

Art. 62.13. Hearing to Determine Need for Registration of a Juvenile

- (a) A person who has an adjudication of delinquent conduct that would otherwise be reportable under Article 62.01 (5) does not have a reportable adjudication of delinquent conduct for purposes of this chapter if the juvenile court enters an order under this article excusing compliance by the person with the registration requirements of this chapter.
- (b) 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.
- (c) 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 Subsection (e) 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.
- (d) All written matter considered by the court shall be disclosed to all parties as provided by Section 54.04(b), Family Code.
- (e) The court shall enter an order excusing compliance with the registration requirements of 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 is clearly outweighed by the anticipated substantial harm to the respondent and the respondent's family that would result from registration under this chapter.
- (f) The prosecuting attorney may waive the state's right to a hearing under this article and agree that registration under this chapter is not required. If the waiver is entered under a plea agreement, the court shall without a hearing enter an order excusing compliance with the registration requirements of this chapter or, under Section 54.03(j), Family Code, inform the respondent that the court believes a hearing under this article is required and give the respondent the opportunity to withdraw the respondent's plea of guilty, nolo contendere, or true or to affirm the respondent's plea and participate in the hearing. If the waiver is entered other than under a plea agreement, the court shall without a hearing enter an order excusing compliance with the registration requirements of this chapter. The waiver must state whether or not it is entered under a plea agreement. The

respondent may as part of a plea agreement promise not to file a motion seeking an order excusing registration, in which case the court may not recognize the motion.

- (g) Notwithstanding Section 56.01, Family Code, on entry by a juvenile court of an order under Subsection (e) excusing 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 excusing compliance with registration. The appeal is limited to review of the order excusing compliance with registration and may not include any other issues in the case.
- (h) The respondent may under Section 56.01, Family Code, appeal the juvenile court's order 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 not excusing compliance with registration.
- (i) If the juvenile court enters an order excusing registration, the respondent may not be required to register in this or any other state for the offense for which registration was excused.
- (j) After a hearing under Subsection (b) or under a plea agreement under Subsection (f), the juvenile court may enter an order deferring decision on requiring registration until the respondent has completed a sex offender treatment program as a condition of probation or while committed to the Texas Youth Commission. The court retains discretion to require or to excuse registration at any time during the treatment program or on its successful or unsuccessful completion. During the period of deferral, registration may not be required.
- (k) After a hearing under Subsection (b) or under a plea agreement under Subsection (f), the juvenile court may enter an order requiring the respondent to register as a sex offender but provide that the registration information is not public information and is restricted to use by law enforcement and criminal justice agencies. Information obtained under this subsection may not be posted on the Internet or released to the public.
- (l) 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 excusal from registration as provided by Subsection (e) or seeking under Subsection (k) an order that the registration become nonpublic.
- (m) The person may file a motion under Subsection (l) in the original juvenile case regardless of whether the person is at the time of filing 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 article.
- (n) A motion may be filed under Subsection (l) only if a previous motion under this article has not been filed concerning that case.

(o) To the extent feasible, the motion under Subsection (l) shall identify those public and private agencies and organizations that possess sex offender registration information about the case.

(p) The juvenile court, after a hearing, may:

(1) deny the motion;

(2) grant the motion to excuse all registration; or

(3) grant the motion to change the registration from public to nonpublic.

(q) If the court grants the motion, a copy of the court's order shall be sent to each public and private agency or organization that the court determines may be in possession of sex offender registration information. The order shall require the recipient to conform its records to the court's orders either by deleting the information or changing its status to nonpublic, as the order requires.

(r) A private agency or organization that possesses sex offender registration information it obtained from a state, county, or local governmental entity is required to conform its records to the court's order on or before the 30th day after the date of its entry. 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 in this state in the future.

