



TEXAS BOARD
OF
PARDONS AND PAROLES

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Page: Page 1 of 8

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BOARD POLICY

SUBJECT: SPECIAL CONDITION “X” (SEX OFFENDER CONDITION)

PURPOSE: To establish “X” (Sex Offender Condition) as a special condition of parole or mandatory supervision and to establish a procedure for imposing Special Condition “X” as a condition of parole or mandatory supervision.

AUTHORITY: Texas Government Code Sections 508.0441, 508.045, 508.187, 508.1862, 508.281, and 508.225
Texas Code of Criminal Procedure Articles 62.051 and 62.063
Texas Administrative Code Title 37, Part 5, Chapter 48
Board Policies BPP-POL. 145.205, 145.256, and 145.265

DISCUSSION: Members of the Texas Board of Pardons and Paroles (Board) and Parole Commissioners determine conditions of parole and mandatory supervision. Except in special circumstances, Board Members and Parole Commissioners act in panels comprised of three persons, and panel decisions are made by majority vote. The Presiding Officer designates the composition of the parole panels. Special conditions are conditions imposed in addition to the standard conditions of parole or mandatory supervision. Unless otherwise provided, any condition may be imposed before or after release and shall remain in effect until specifically removed by a parole panel.

POLICY: Special Condition “X” represents a cooperative effort between the Board, the Texas Department of Criminal Justice Parole Division (Division), and local law enforcement agencies to minimize the threat of sex offenders to the community when an offender is released on parole or mandatory supervision.

At any time Special Condition “X” is in effect, the offender shall fully comply with state laws governing sex offender treatment, sex offender registration and DNA submission, Internet access, child safety zone restrictions, as well as Board and Division policies governing sex offender conditions and supervision.

DEFINITIONS: Victim - A person who is the victim of the offense of sexual assault, kidnapping, aggravated robbery, trafficking of persons, or injury to a child, elderly individual, or disabled individual or who has suffered personal injury or death as a result of the criminal conduct of another.

Guardian of a victim - A person who is the legal guardian of a victim, whether or not the legal relationship between the guardian and victim exists because of the age of the victim or the physical or mental competency of the victim.

Legally recognized parent - The mother, a man presumed to be the father, a man legally determined to be the father, a man who has been adjudicated to be the father by a court of competent jurisdiction, a man who has acknowledged his paternity under applicable law, or an adoptive mother or father, as defined in Texas Family Code §101.024; or where the offender has been appointed legal guardian of said child.

Sex offender - Offenders who have been convicted of or transferred from juvenile parole or commitment to adult parole or prison for an offense in Chapter 21, Penal Code; required to register pursuant to Chapter 62, Code of Criminal Procedure; or constituted a threat to society by reason of lack of sexual control. This definition does not apply to those defendants who are currently on or discharged a deferred adjudication community supervision.

COMPONENTS:

“X” - “Sex Offender Program”- At any time this condition is in effect, unless modified or withdrawn by the parole panel, an offender shall:

A. Sex Offender Treatment

1. Enroll in and participate in a treatment program for sex offenders, and
2. Submit to polygraph examinations outside the treatment contract between the sex offender and the sex offender treatment provider, as directed by the supervising parole officer and approved by the parole panel.

Evidence of a polygraph, while admissible in a hearing on revocation of parole or mandatory supervision, is not in and of itself a valid ground for revocation.

B. Sex Offender Registration – Comply with Sex Offender Registration requirements when Special Condition M is imposed by the parole panel as outlined in Board Policy 145.256 as directed by the supervising parole officer.

C. Victim of the Offense

1. Not intentionally or knowingly communicate directly or indirectly by telephone, correspondence, video or audio device, third person, media or by any electronic means, with the victim or guardian of the victim of the sex offense, or
2. Not intentionally or knowingly go near a residence, school, place of employment, or business of a victim or guardian of the victim.

This component applies even when the offender is the legally recognized parent of the victim.

- D. Victim 17 Years of Age or Younger - Offenders serving a sentence for an offense listed in 508.187(a), or 508.225(a) against a victim who is a child defined by Section 22.011(c), Penal Code or a victim who is 17 years of age or younger shall:
1. Receive psychological counseling until such time as the treatment provider, in conjunction with the Parole Division, determines that treatment is no longer required. The Parole Division will submit a recommendation to withdraw the requirement to attend psychological counseling to the appropriate parole panel in those instances where such action is deemed appropriate.
 2. Not operate, cause to operate, participate in or attend any program that includes as participants or recipients persons who are 17 years of age or younger and that regularly provides athletic, civic, or cultural activities.
 3. Not reside with, have unsupervised contact with, or cause to be contacted, any child 17 years of age or younger, in person, by telephone, correspondence, video or audio device, third person, media, or any electronic means, unless the offender is the legally recognized parent of the child and a parole panel has authorized the contact.
 4. Not become involved in dating, marriage, or platonic relationship with any person who has children 17 years of age or younger unless approved in writing by offender's supervising parole officer.
- E. Child Safety Zone – Offenders serving a sentence for an offense listed in 508.187(a) and 508.225(a) shall not go in, on or within a distance specified by Board policy of a premise where children commonly gather, including a school, day care facility, playground, public or private youth center, public swimming pool, or video arcade facility.
1. Modification - A parole panel may modify the standardized distance, upon written request from the supervising parole officer, if the child safety zone:
 - a. interferes with the offender's ability to attend school or hold a job and consequently constitutes an undue hardship for the offender; or
 - b. is broader than necessary to protect the public, given the nature and circumstances of the offense.
 2. Not applicable - Notwithstanding the standardized distance for a child safety zone adopted by this policy, the requirement that an offender not go in, on, or within the distance specified by a parole panel of certain premises does not apply to an offender while the offender is in or going immediately to or from:
 - a. a parole office;
 - b. premises at which the offender is participating in a program or activity required as a condition of release;

- c. a residential facility in which the offender is required to reside as a condition of release;
- d. a private residence in which the offender is required to reside as a condition of release; or
- e. any other premises, facility, or location that is:
 1. designed to rehabilitate or reform the offender; or
 2. authorized by the Parole Division as a premises, facility or location where it is reasonable and necessary for the offender to be present and at which the offender has legitimate business including a church, synagogue, or other established place of religious worship, a workplace, a health care facility, or a location of a funeral.

F. Computer, Photographic Equipment or Electronic Device

1. Not own, maintain or operate computer equipment or an electronic device which functions or operates as a computer and has access to the Internet where the offender used such equipment or any other electronic device to commit the offense without a declared purpose and the written authorization of the offender's supervising parole officer. If authorization is granted, the offender shall submit to a regular inspection, monitoring or search of the computer equipment and electronic device without a warrant, at any time, day or night, by any Division parole or law enforcement official. Offender shall allow the supervising officer to install a specified computer program designed to track computer activity.
2. Not own, maintain or operate photographic equipment or an electronic device with photographic capabilities, to include instamatic, still photo, video, or any electronic imaging equipment where the offender used such equipment or any other electronic device to commit the offense unless approved in writing by the offender's supervising parole officer.

G. Sex Offender Restrictions

1. Not operate, cause to operate, secure employment in, participate in, attend, nor go in or on any sexually-oriented business, including adult bookstores, massage parlors, adult video stores, or any business that provides adult entertainment, such as nude or partially-nude service, dancing or exhibition.
2. Not participate in any volunteer activities or volunteer any services without prior written approval of the offender's supervising officer. In the event any such volunteer activity or service is approved, offender must provide written notification to the prospective recipient agency/person regarding criminal history, as directed by the supervising parole officer.
3. Not enroll in, attend, be employed by, volunteer for or enter an institution of higher learning, to include community college, junior college, university, public or private or any facilities, off-site or otherwise, without board panel approval

by a parole panel and notification to the victim or guardian of the victim of the sex offense.

4. Not view, possess, purchase, or subscribe to, or cause to be purchased or subscribed to, any photographs, literature, magazines, books, or visual media that depict sexually explicit images, nor communicate or cause to communicate with a person for sexually explicit purposes through telecommunications or any other electronic means, including 1-900 services.
5. Not have any unsupervised contact with any person 17 years of age or younger when the offender is not the legally recognized parent of a child 17 years of age or younger. The supervising parole officer also must approve in writing requests for residence and the chaperone for any authorized contact.

H. Prohibited Employment – Offenders subject to Article 62.063, Code of Criminal Procedure, shall:

1. Not operate or offer to operate a bus;
2. Not provide or offer to provide a passenger taxicab or limousine transportation service;
3. Not provide or offer to provide any type of service in the residence of another person unless the provision of service is supervised; or
4. Not operate or offer to operate any amusement ride.

I. In addition to the above components, at any time Special Condition “X” is imposed, and to the extent directed in writing by the offender’s supervising parole officer, an offender shall:

1. Not leave the offender’s approved County of Residence, without written permission from the offender’s supervising parole officer.
2. Abide by a curfew established in writing by the supervising parole officer.
3. Notify any prospective employer regarding the offender’s criminal history if directed in writing by the supervising parole officer.
4. Submit to a search of offender’s person, motor vehicle, and place of residence, property, or any property to which offender has been given permission to use, without a warrant, at any time, day or night, by the offender’s parole officer or any authorized representative of the TDCJ Parole Division, with the assistance of any law enforcement officer.

The parole officer or TDCJ Parole Division representative must have a reasonable suspicion in order to conduct a search under their statutory duty to investigate and supervise all offenders on parole or mandatory supervision. Reasonable suspicion is defined as specific and articulable facts, taken together with reasonable inferences

from these facts, reasonably warranting a belief that a condition of supervision has been or is being violated.

Note: Other components deemed necessary for adequate supervision will be submitted to a parole panel for approval.

PROCEDURE:

I. Criteria for Imposition

A. Sex Offender Treatment – Mandatory for offenders who:

1. Served a sentence for an offense under Chapter 21, Penal Code or required to register as a sex offender under Chapter 62, Code of Criminal Procedure, and
2. Participated in a sex offender treatment program immediately before being released from prison.

B. Sex Offender Treatment – Discretionary for offenders:

1. Who served a sentence for an offense under Chapter 21, Penal Code or required to register as a sex offender under Chapter 62, Code of Criminal Procedure, or
2. Where a designated agent made an affirmative finding, regardless of the offense for which the offender was serving a sentence, that the offender constitutes a threat to society by reason of his lack of sexual control.

II. Impose Special Condition

- A. A parole panel, upon a majority vote, may impose Special Condition “X” as a condition of parole or mandatory supervision.
- B. Unless otherwise directed, any condition of parole or mandatory supervision imposed, withdrawn, or modified is effective on the date the offender is served notice of the parole panel decision.
- C. At any time that Special Condition “X” is in effect, an offender’s supervising parole officer may direct the offender in writing to comply with any or all components of Special Condition “X.” An acknowledgment form shall be executed every time compliance requisites are imposed or withdrawn.

III. Legally Recognized Parent

- A. In order to request that the parole panel impose restrictions on contact with a child 17 years or age or younger, when the offender is the legally recognized parent of that child, the parole officer or TDCJ Parole Division representative shall provide to the offender written notice and an opportunity to provide a written response within 30 days

regarding the proposed restrictions on contact. Said notice shall provide the basis for the proposed restriction.

- B. Before any parole panel considers of whether to impose restrictions on contact by an offender who is the legally recognized parent of a child 17 years of age or younger, the parole officer or TDCJ Parole Division representative shall provide credible information in writing, to include a statement from the sex offender therapist, to the parole panel that indicates that the offender poses a threat to the said child or children and that such restrictions are necessary for the protection of the child or children.
- C. The parole panel will deny or grant contact and identify, by name, the child or children the restriction applies to or request additional information from the parole officer or Division. The parole panel may also authorize supervised contact with an approved chaperone.
- D. If the offender is the legally recognized parent of the victim of the offense, the panel shall impose Special Condition “V” that requires that the offender not intentionally or knowingly communicate by any means directly or indirectly with the victim of the offense or intentionally or knowingly go near a residence, school, place of employment, or business of a victim.
- E. If the victim of the offense is not under 17 years of age, the TDCJ Parole Division must provide credible information in writing to the panel that indicates that the offender poses a threat to children and that restrictions on contact with children should be imposed.
- F. Before submission of a request to the parole panel to impose the Sex Offender Special Condition on offenders who have no current or prior conviction for a sex offense, the parole officer or TDCJ Parole Division representative shall provide to the offender written notice and opportunity to provide a written response within 30 days. Upon the expiration of the notice period, the parole officer or TDCJ Parole Division representative shall provide credible information in writing to the panel that indicates that the offender constitutes a threat to society by reason of his lack of sexual control.

IV. Withdrawal of Special Condition

- A. Once imposed, Special Condition “X” should continue to govern the offender for the duration of the supervised period. Only the parole panel by majority vote can modify or remove the condition in its entirety.
- B. All requests for modification or removal of any components of Special Condition “X” shall be submitted in writing to the supervising parole officer and shall be forwarded to the parole panel with a recommendation for decision.
- C. The Board, by Component I, intends to afford the offender’s supervising officer the flexibility to perform the day-to-day supervision of the offender.

ADOPTED BY MAJORITY VOTE OF THE BOARD ON THE 20th DAY OF OCTOBER, 2017.

DAVID GUTIÉRREZ, PRESIDING OFFICER (CHAIR)

**Signature on file.*