



**TEXAS BOARD
OF
PARDONS AND PAROLES**

Number: BPP-POL. 148.200

Date: October 18, 2018

Page: 1 of 1

Supersedes: September 1, 2015

BOARD POLICY

SUBJECT: SEX OFFENDER CONDITIONS - RELEASEE NOT CONVICTED OF A SEX OFFENSE

PURPOSE: To establish a policy statement of the Texas Board of Pardons and Paroles regarding the imposition of sex offender conditions for releasees who have not been convicted of a sex offense.

AUTHORITY: Texas Constitution Article 4, Section 11
Texas Code of Criminal Procedure Article 42A.301
Texas Government Code Sections 508.0441, 508.045, 508.141, and 508.228
Texas Administrative Code Title 37, Part 5, Chapter 148

DISCUSSION: On May 20, 2010, the United States Court of Appeals for the Fifth Circuit issued an opinion requiring the State to provide a releasee who has not been convicted of a sex offense due process prior to the imposition of sex offender treatment and registration. The Fifth Circuit clarified its opinion by stating that the opinion applies only to those releasees who were released on mandatory supervision for an offense committed prior to September 1, 1996. On May 4, 2011, the Texas Court of Criminal Appeals expanded the Fifth Circuit's opinion requiring due process for all types of release – mandatory supervision, discretionary mandatory supervision, and parole – and for all the components of Special Condition "X".

POLICY: It is the policy of the Texas Board of Pardons and Paroles (Board) to review and consider sex offender conditions as a special condition for releasees who have not been convicted of a sex offense and who are currently on parole or mandatory supervision (1) for an offense which contains a sexual element, or (2) has a past juvenile adjudication for a sex offense.

It is the policy of the Board to afford releasees who have not been convicted of a sex offense or who have a past juvenile adjudication for a sex offense due process prior to the imposition of sex offender conditions.

ADOPTED BY MAJORITY VOTE OF THE BOARD ON THE 18TH DAY OF OCTOBER, 2018.

DAVID GUTIÉRREZ, PRESIDING OFFICER (CHAIR)

**Signature on file.*