

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PAROLE DIVISION**



**POLICY AND
OPERATING PROCEDURE**

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SUPERSEDES: 12/05/13

SUBJECT: CHILD SAFETY ZONES

AUTHORITY: TEXAS GOVERNMENT CODE ANN. §§ 508.187, 508.221, 508.225; TEXAS ATTORNEY GENERAL OPINION NO. GA-0526 (2007); TEXAS HEALTH AND SAFETY CODE 481.134; TEXAS BOARD OF PARDONS AND PAROLES, BPP POLICY 145.263

POLICY: To establish policy and procedures regarding guidelines for child safety zones.

PROCEDURE:

I. CHILD SAFETY ZONES FOR SEX OFFENDERS

A. Offenders who are statutorily required to abide by child safety zones shall have Special Condition "0.06"—Child Safety Zone administratively imposed. By law, child safety zones apply to offenders who are serving a sentence for an offense listed below and whose victim was a child younger than seventeen (17) years of age. Applicable Texas Penal Code sections are:

1. 20.04(a)(4) Aggravated Kidnapping (with intent to violate or abuse sexually)
2. 20A.02 Trafficking of Persons, if the offender:
 - a. Trafficked the victim with the intent or knowledge that the victim would engage in sexual conduct, as defined by Section 43.25 of the Penal Code; or
 - b. Benefitted from participating in a venture that involved a trafficked victim engaging in sexual conduct, as defined by Section 43.25 of the Penal Code.
3. 20A.03 Continuous Trafficking of Persons

- a. Trafficked the victim with the intent or knowledge that the victim would engage in sexual conduct, as defined by Section 43.25 of the Penal Code; or
 - b. Benefitted from participating in a venture that involved a trafficked victim engaging in sexual conduct, as defined by Section 43.25 of the Penal Code.
4. 21.02 Continuous Sexual Abuse of a Young Child or Children
 5. 21.11 Indecency with a Child
 6. 22.011 Sexual Assault
 7. 22.021 Aggravated Sexual Assault
 8. 25.02 Prohibited Sexual Conduct
 9. 30.02(d) Burglary of a Habitation with intent to commit a sex offense listed in section I.A.2 – 7
 10. 43.05(a)(2) Compelling Prostitution
 11. 43.25 Sexual Performance by a Child
 12. 43.26 Possession or Promotion of Child Pornography

B. Child safety zones shall also apply to offenders who have discharged sex offenses and the victim of the sex offense was younger than seventeen (17) years of age. If Special Condition “X” is imposed and the sex offense(s) was against a child, the child safety zone component is mandatory and shall be selected pursuant to PD/POP-3.6.2, *Sex Offender Program Supervision Guidelines*.

C. The BPP has established 500 feet as the standard distance for a child safety zone. The 500 feet, or the distance specified by the BPP, shall be measured from property line to property line.

Note: In some areas in Texas, cities have established a city ordinance greater than 500 feet. Parole officers shall be aware of the distance in the event a city ordinance has been established in their area. If the distance set by the city ordinance differs from the distance set by the BPP, the offender shall comply with the greatest distance.

D. The child safety zone condition for sex offenders requires that offenders shall:

1. Not supervise or participate in **any** program that regularly provides athletic, civic, or cultural activities and includes, as participants or recipients, persons who are seventeen (17) years of age or younger;

2. Not go in, on, or within the distance specified by the BPP Panel of premises where children commonly gather, including a school, daycare facility, playground, public or private youth center, public swimming pool, or video arcade facility; and
3. Attend a sex offender treatment program as specified by the supervising parole officer.

II. CHILD SAFETY ZONE DEFINITIONS

A. As outlined in the Texas Health and Safety Code 481.134 and Texas Government Code 508.187 and 508.225, the following are considered child safety zones:

1. Playgrounds

A playground is any outdoor facility that is not on the **premises** of a school.

Note: “Premises” is defined as 1) real property and all buildings and property rights pertaining to the real property, or 2) houses or buildings, together with their land and outbuildings, occupied by a business or considered in an official context.

Also, a playground:

- a. Is intended for recreation;
- b. Is open to the public; and
- c. Contains three (3) or more play stations intended for the recreation of children, such as slides, swing sets, and teeterboards.

2. Schools and daycares

- a. A school can be a private or public elementary or secondary school.
- b. A daycare:
 - i. Is licensed to care for seven (7) or more children; and
 - ii. Provides care for less than 24 hours per day.

3. Video arcades

A video arcade is any facility that:

- a. Is open to the public, including persons who are 17 years of age or younger;
- b. Is intended primarily for the use of pinball or video machines; and

- c. Contains at least three (3) pinball or video machines.
 - 4. Youth centers
- A youth center is any recreational facility or gymnasium that:
- a. Is intended primarily for use by persons who are 17 years of age or younger; and
 - b. Regularly provides athletic, civic, or cultural activities.
- 5. Public swimming pools

Note: Swimming pools at apartment complexes are not open to the public; therefore, they are not considered child safety zones.

- B. Per Parole Division definition, a child safety zone is a business or place where the intended, primary customer base is children and is intended for recreation (e.g., children's pizza establishment, indoor play center, children's ballet studio, Little League baseball fields, gymnastics facilities).

III. TRAVEL THROUGH AND INTO CHILD SAFETY ZONES

- A. Child safety zone restrictions do not apply to an offender while the offender is in or going immediately to or from:
 - 1. Parole Division district parole office or location where the offender is required to report to the parole officer;
 - 2. Premises at which the offender is required to participate in a program or activity required as a condition of parole or mandatory supervision;
 - 3. Residential facility in which the offender is required to reside as a condition of parole or mandatory supervision;
 - 4. Private residence where the offender is required to reside as approved by the Division; or
 - 5. Any other premise, location, or facility that is designed to rehabilitate or reform the offender, authorized as a location where it is reasonable and necessary for the offender to be present due to legitimate business (i.e., church, funeral, work, health care facility).

Note: Daily living needs shall be considered reasonable and necessary to allow an offender to travel through and into child safety zones. Locations for daily living needs include, but are not limited to, grocery stores, banks, post offices, barbershops or hair salons, gas stations (for fuel).

- B. Child safety zones **do** apply while the offender is in or going immediately to or from recreational and/or leisure activities. For an offender to be allowed to travel through and/or into child safety zones for recreational and/or leisure activities, the case shall be staffed with region management as well as the offender's treatment provider to determine the appropriateness of the activity. If deemed appropriate, a transmittal shall be submitted to the BPP requesting a modification to the standardized child safety zone distance. Reference Section C.1 of this policy for procedures on child safety zone modifications.
- C. Modifications

1. If a modification is required for an offender to participate in a leisure or recreational activity, the parole officer shall submit the standardized verbiage in the body of an email to the unit supervisor for review. The unit supervisor shall submit the verbiage to the Sex Offender Program Supervisor III (SO PS III) for approval. Upon approval from the SO PS III, the parole officer shall submit the transmittal via the OIMS to the BPP.
2. If a child safety zone is created after an approved residence is established, the parole officer shall complete the Sex Offender Program Child Safety Zone Worksheet (SP-0702) and submit through the parole officer's chain of command to the Region Director. The Region Director shall forward the worksheet to the SO PS III, who will submit it through the Specialized Programs' chain of command to the Deputy Director of Field Operations. Upon approval or denial of the worksheet, the SO PS III shall provide instructions to the parole officer, through the parole officer's chain of command, on how to proceed. (Example: The offender resides at an approved residence, and six (6) months later, a daycare is established across the street.)

D. Travel Routes

1. Travel routes are not necessary for offenders who are traveling to or from locations cited in Section III.A. of this policy, or other locations deemed as daily living needs.
2. Travel routes are required for approved recreational and leisure activities as cited in Section III.B. of this policy. The Sex Offender Travel Route/Child Safety Zone Information Form (SP-0082) shall be completed within three (3) business days of the child safety zone modification in order to allow the offender to travel to the approved location.

IV. CHILD SAFETY ZONES FOR 3(g) OFFENDERS

- A. The use of child safety zones was expanded by the 76th Legislature to include offenders with 3(g) (a) (1) and (2) offenses as listed in the Texas Code of Criminal Procedure, Article 42.12, C.C.P., **if** the BPP requires it as a condition of release. Parole officers shall not select the child safety zone component for sex offenders who have an offense listed below unless they meet the criteria in section I.A or I.B. of this policy. Applicable Texas Penal Code offenses are:

1. 15.03 Criminal Solicitation, if the offense is punishable as a first degree felony
2. 19.02 Murder
3. 19.03 Capital murder
4. 20A.02 Trafficking of Persons
5. 20.04 Aggravated Kidnapping
6. 21.11(a) (1) Indecency with a Child
7. 22.011 Sexual Assault
8. 22.021 Aggravated Sexual Assault
9. 22.04(a) (1) Injury to a Child, Elderly Individual, or Disabled Individual
10. 29.03 Aggravated robbery
11. 30.02(d) Burglary of a Habitation, if with intent to commit a felony under the following sections:
 - a. 21.02 Continuous Sexual Abuse of a Young Child or Children
 - b. 21.11 Indecency with a Child
 - c. 22.011 Sexual Assault
 - d. 22.021 Aggravated Sexual Assault
 - e. 25.02 Prohibited Sexual Conduct
12. 43.05 Compelling Prostitution
13. 43.25 Sexual Performance of a Child
14. An affirmative finding that a deadly weapon was used or exhibited during the commission of a felony offense.
15. Chapter 481 of the Texas Health and Safety Code for which punishment is increased under:
 - a. Section 481.140 (Use of Child In Commission of Offense)
 - b. Section 481.134(c), (d), (e), or (f) (Drug Free Zone), if it is shown that the offender was previously convicted of an offense for which punishment was increased.

Note: Other 3(g) offenses are addressed under Section I.A of this policy.

B. Specific child safety zone conditions for 3(g) offenders with conditions imposed by the BPP require that offenders shall:

1. Not supervise or participate in **any** program that includes as participants or recipients persons who are seventeen (17) years of age or younger and that regularly provides athletic, civic, or cultural activities; and
2. Not go in, on, or within a distance, specified by the BPP Panel, of premises where children commonly gather, including a school, daycare facility, playground, public or private youth center, public swimming pool, or video arcade facility.

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