

**TITLE 37  
PART 6  
CHAPTER 163  
RULE § 163.38**

**PUBLIC SAFETY AND CORRECTIONS  
TEXAS DEPARTMENT OF CRIMINAL JUSTICE  
COMMUNITY JUSTICE ASSISTANCE DIVISION STANDARDS  
Sex Offender Supervision**

Proposed Amendments Preamble

The Texas Board of Criminal Justice (board) proposes amendments to § 163.38, concerning Sex Offender Supervision. The proposed amendments update statutory references, add language to include applicable grant conditions in subsection (g), and make grammatical and formatting updates.

Ron Steffa, Chief Financial Officer for the Texas Department of Criminal Justice, has determined that for each year of the first five years the proposed amendments will be in effect, enforcing or administering the proposed amendments will not have foreseeable implications related to costs or revenues for state or local government because the proposed amendments merely clarify existing procedures.

Mr. Steffa has also determined that for each year of the first five-year period, there will not be an economic impact on persons required to comply with the rules because the proposed amendments merely clarify existing procedures. There will not be an adverse economic impact on small or micro businesses or on rural communities. Therefore, no regulatory flexibility analysis is required. The anticipated public benefit, as a result of enforcing the proposed amendments, will be to enhance clarity and public understanding. No cost will be imposed on regulated persons.

The proposed amendments will have no impact on government growth; no impact on local employment; no creation or elimination of a government program; no creation or elimination of employee positions; no increase or decrease in future legislative appropriations to the TDCJ; no increase or decrease in fees paid to the TDCJ; no new regulation and no effect on an existing regulation; no increase or decrease in the number of individuals subject to the rule; and no effect upon the economy. The proposed amendments will not constitute a taking.

Comments and information such as applicable data, research, or analysis related to the cost, benefit, or effect of the proposed amendments should be directed to the Office of the General Counsel, Texas Department of Criminal Justice, P.O. Box 4004, Huntsville, Texas 77342, [ogccomments@tdcj.texas.gov](mailto:ogccomments@tdcj.texas.gov). Written comments and informational submissions from the general public must be received within 30 days of the publication of this rule in the *Texas Register*.

The amendments are proposed under Texas Government Code § 76.016, which requires victim notification; § 492.013, which authorizes the board to adopt rules; § 509.003, which authorizes the board to adopt reasonable rules establishing standards and procedures for the TDCJ Community Justice Assistance Division; and Texas Code of Criminal Procedure Chapter 42A, which establishes guidelines for community supervision and Chapter 62, which establishes the sex offender registration program.

Cross Reference to Statutes: None.

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(a) Definitions.

(1) “Jurisdictional Authority” is a sentencing court, the Board of Pardons and Paroles (BPP), or a division of the Texas Department of Criminal Justice as applicable to the offender.

(2) “Sex Crime” is a reportable offense under Texas Code of Criminal Procedure Article 62.001(5) or an offense identified as a sexual offense by the Texas Penal Code laws of the United States, another state, another country, or the Uniform Code of Military Justice.

(3) “Sex Offender” is an offender who:

(A) is convicted of committing or adjudicated to have committed a sex crime;

(B) is awarded deferred adjudication for a sex crime; or

(C) has been ordered by the jurisdictional authority to participate in sex offender supervision or treatment.

(b) A community supervision and corrections department (CSCD) supervising sex offenders shall ensure consistency in the manner in which sex offenders are supervised throughout the CSCD department. Policies and procedures shall be developed that, at a minimum, include the following:

(1) contact standards as per 37 Texas Administrative Code § 163.35(~~d~~e)(5);

(2) sex offender registration as per Texas Code of Criminal Procedure Chapter 62;

(3) DNA collection as per Texas Code of Criminal Procedure Article 42A.301(b)(~~20~~4);

(4) violation procedures as per 37 Texas Administrative Code § 163.35(~~d~~e)(7);

(5) victim notification as per Texas Government Code § 76.016;

(6) treatment referral process as per Texas Code of Criminal Procedure Article 42A.~~258453~~(i);

(7) treatment participation requirements;

(8) team approach to supervision;

(9) sharing of information and documentation with the appropriate agencies; and

(10) specialized caseload size, if applicable.

(c) Each CSCD shall develop policies and procedures that address the needs and safety of victims or potential victims. The policies may include collaborating with victims, victim advocates, or sexual assault task forces in the supervision and treatment of sex offenders.

(d) Community supervision officers (CSOs) shall use a record keeping system to document all significant actions, decisions, services rendered, and periodic evaluations in each offender's case file, including the offender's level of supervision, compliance with the conditions of community supervision, progress with the supervision plan, and responses to intervention.

(e) CSOs shall collaborate with collateral sources, including treatment providers, polygraph examiners, significant others, sex offender registration personnel, sex offenders' families, local law enforcement, schools, Child Protective Services, employers, chaperones, and victim service providers.

(f) CSOs shall recommend that conditions be tailored to the sex offender's identified risk.

(g) CSOs shall make face-to-face field visits and collateral contacts with each the offender under the supervision of the CSCD, family, community resources, or other persons consistent with a supervision plan, applicable grant conditions, and the level of supervision on which the offender is being supervised. Each CSCD director shall establish supervision contact and casework standards at a level appropriate for that jurisdiction, but in all cases, offenders at higher levels of supervision shall receive a higher level of contacts than offenders at lower levels of supervision. Supervision contacts shall be specified in the CSCD written policies and procedures.

(h) Each CSCD director shall work with the local judiciary to specify written policies and procedures wherein CSOs may make recommendations to the courts regarding violations of conditions of community supervision, as well as when violations may be handled administratively. The continuum of sanctions or alternatives to incarceration shall be considered by the CSO and recommended to the court in eligible cases as determined appropriate by the jurisdiction.

(i) CSOs shall timely transmit information regarding supervision and treatment upon transfer of supervision.

(j) In addition to the above, a CSCD may operate specialized caseloads for sex offenders. In this event, the CSCD shall have a written policy that:

(1) establishes minimum qualifications and training requirements for CSOs supervising sex offenders; and

(2) specifies the number of staff required for the increased level of supervision essential for the specialized supervision of sex offenders. The caseload size shall not exceed 60 offenders per caseload.