

CHAPTER 12 OFFENSES AND NUISANCES

ARTICLE 12.04 SEX OFFENDER RESIDENCY*

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Sec. 12.04.001 Definitions

For the purpose of this article, the following terms, words and the derivations thereof shall have the meanings given below:

Day care center. A facility providing care, training, education, custody, treatment, or supervision for 13 or more children for less than 24 hours a day.

Minor. Any person younger than 17 years of age.

Permanent residence. A place where a person abides, lodges or resides for 14 or more consecutive days.

Premises where children commonly gather. Includes all improved and unimproved areas on the lot where a public park, public playground, private or public school, public or semi-public swimming pool, public or nonprofit recreational facility, day care center or video arcade facility is located, as those terms are or may be defined in V.T.C.A., Health and Safety Code section 481.134, as amended. For purposes of this article, landscaped street medians are not public parks.

Temporary residence. A place where a person abides, lodges or resides for a period of 14 or more days in the aggregate during any calendar year, and which is not the person's permanent address, or a place where a person routinely abides, lodges or resides for period of four or more consecutive or nonconsecutive days in a month and which is not the person's permanent residence.

(1999 Code, sec. 58-131)

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Sec. 12.04.002 Penalty

A person who violates any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction, shall be fined a sum not to exceed \$500.00 for each offense, and each and every violation or day such violation shall continue or exist shall be deemed a separate offense. (1999 Code, sec. 58-136)

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Sec. 12.04.003 Offenses

It is unlawful for a person to establish a permanent or temporary residence within 1,500 feet of any premises where children commonly gather if the person is required to register on the state department of public safety's sex offender database (the "database") because of a conviction(s) involving a minor. (1999 Code, sec. 58-132)

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Sec. 12.04.004 Evidentiary matters; measurements

(a) It shall be prima facie evidence that this article applies to a person if that person's record appears on the database and the database indicates that the victim was a minor as defined herein.

(b) For the purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest property line of the premises where children commonly gather, as described hereinabove, or, in the case of multiple residences on one property, measuring from the nearest property line of the premises to the nearest property line of the premises where children commonly gather, as described herein.

(c) A map depicting the prohibited areas shall be maintained by the city. Said map will be available to the public for inspection at the city police department.

(1999 Code, sec. 58-133)

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Sec. 12.04.005 Culpable mental state not required

Neither allegation nor evidence of a culpable mental state is required for the proof of any offense defined by this article. (1999 Code, sec. 58-134)

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Sec. 12.04.006 Defenses

It is an affirmative defense to prosecution under this article that any of the following conditions apply:

- (1) The person required to register on the database established the permanent or temporary residence and has complied with all of the sex offender registration laws of the state prior to the date of adoption of this article.
- (2) The person required to register on the database was a minor when he or she committed the offense requiring such registration and was not convicted as an adult.
- (3) The person required to register on the database is a minor.
- (4) The premises where children commonly gather, as specified herein, within 1,500 feet of the permanent or temporary residence of the person required to register on the database was opened

after the person established the permanent or temporary residence and complied with all sex offender registration laws of the state.

(5) The information on the database is incorrect, and, if corrected, this article would not apply to the person who was erroneously listed on the database.

(6) The person was at the time of the violation subject to community services supervision pursuant to section 13B of article 42.12 of the Texas Code of Criminal Procedure, as amended, and the court reduced or waived the 1,000-foot restriction for a child-free zone under section 13B(a)(1) (B) of article 42.12 of the Texas Code of Criminal Procedure, as amended, as it applies to the person's residence.

(1999 Code, sec. 58-135)