

BILL ANALYSIS

C.S.S.B. 912
By: Shapiro
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law allows for the civil commitment of sexually violent predators. The definitions of sexually violent predators all require that the person be convicted of a sexually violent offense, adjudicated of a sexually violent offense, plead or found guilty by reason of insanity to a sexually violent offense, adjudicated by a juvenile court of having engaged in delinquent conduct of a sexually violent offense.

The original civil commitment process has been successful, but restricted application of the law to a few enumerated offenses has limited its effectiveness by failing to take into consideration sexually violent predators who commit other serious offenses that may be motivated by a sexually violent impulse, but do not contain the element in the legal charge of conviction. These sexually violent predators are currently outside the civil commitment process.

C.S.S.B. 912 expands the scope of the civil commitment process to include as sexually violent predators some inmates who have been convicted of committing or attempting to commit a "sexually motivated" murder, capital murder and at least one other sexually violent offense as described in the chapter.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Health and Safety Code, to define "sexually motivated conduct" and redefine "sexually violent offense."

SECTION 2. Amends Sections Health and Safety Code, as follows:

(a) Requires the Texas Department of Criminal Justice (TDCJ), before the person's anticipated release date, to give to the multidisciplinary team written notice of a person:

(1) who is serving a sentence for a sexually violent offense described by Section 841.002(8)(A), (B), or (C) (definition of "sexually violent offense") or what is, or as described as may be determined to be, a sexually violent offense described by Section 841.002(8)(D) (definition of "sexually violent offense"); and

(2) may be a repeat sexually violent offender.

(b) Makes conforming changes.

SECTION 3. Amends Health and Safety Code, as follows:

Sets forth requirements that a judge is required to impose upon a person to ensure compliance with the person's outpatient civil commitment, including requiring the person to reside in a Texas residential facility under contract with the Council on Sex Offender Treatment (council) or at another location or facility approved by the council.

Provides that the court, rather than the judge, retains jurisdictions of the case with respect to a civil commitment proceeding conducted under Subchapters F (Commitment Review) and G (Petition for Release). Deletes existing text requiring a judge to transfer jurisdiction of a case regarding a person's civil commitment to a district court.

SECTION 4. Amends Section 841.083 Health and Safety Code, by amending Subsections (c) and (d) and adding Subsections (c-1) and (c-2), as follows:

(c) Requires the council to enter into appropriate memoranda of understanding, rather than an interagency agreement, with the Texas Department of Public Safety (DPS) for the provision of a tracking service and for assistance in the preparation of criminal complaints, warrants, and related documents and in the apprehension and arrest of a person.

(c-1) Requires the council, notwithstanding Subsection (c) or any other provision of this subchapter, to provide through the case management system any supervision or tracking service required under this chapter for persons residing in Dallas, Harris, or Tarrant. Requires the council to provide the tracking service under this subsection through two employees of the Department of State Health Services (DSHS). Requires any tracking personnel used by DSHS for purposes of this chapter to be approved by the council.

(c-2) Creates subsection from existing text. Requires DPS or the council, as appropriate, if the equipment necessary to implement the tracking service is available through a contract by the Texas Building and Procurement Commission, to acquire equipment through that contract.

(d) Requires the council to enter into appropriate memoranda of understanding, rather than an interagency agreement with TDCJ, for any necessary supervised housing. Requires the council to reimburse the applicable provider, rather than that department, for housing costs under this section. Prohibits the committed person from being housed for any period of time in a mental health facility, state school, or community center, unless the placement results from a commitment of the person to that facility, school, or center by governmental action.

SECTION 5. Amends Health and Safety Code, as follows:

(a) Authorizes a person who is examined under this chapter to retain, at the person's own expense, an expert to perform an examination or participate in a civil commitment proceeding on the person's behalf, including a biennial examination or other civil commitment proceeding to assess the person's status as a sexually violent predator.

(b) Includes the requirement of a judge to approve compensation for an expert as appropriate under Subsection (c) (reasonable compensation).

SECTION 6. Amends Health and Safety Code, as follows:

Sec. 841.150. New heading: EFFECT OF SUBSEQUENT COMMITMENT OR CONFINEMENT ON ORDER OF CIVIL COMMITMENT. (a) Redesignated from text of existing Subsection (b). Provides that the duties, rather than statutory duties, imposed by this chapter are suspended for the duration of any confinement of a person, or any commitment of a person to a community center, mental health facility, or state school, by governmental action.

(b) Defines "community center," "mental health facility," and "state school."

SECTION 7. Repealer: Sections 841.082(b) (Authorizes a judge to receive assistance from the council in determining a person's outpatient civil commitment residence.) and 841.084 (Status Reports and Other Information), Health and Safety Code.

SECTION 8. Provides that this Act applies to a person serving a sentence in the Texas Department of Criminal Justice or committed to the Texas Department of Mental Health and Mental Retardation for an offense committed before, on, or after the effective date of this Act.

SECTION 9. This Act takes effect September 1 2005.

EFFECTIVE DATE

September 1 2005

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original bill requires the council, notwithstanding Subsection (c) or any other provision of this subchapter, to provide through the case management system any supervision or tracking service required under this chapter for persons residing in Bexar, Dallas, Harris, Tarrant, or Travis County. The substitute takes out Bexar and Travis. The substitute includes two employees from the Department of State Health Services to use the tracking system provided by the council.