

AN ACT

relating to the civil commitment of and the protection of citizens from sexually violent predators.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 841.002, Health and Safety Code, is amended by adding Subdivision (7-a) and amending Subdivision (8) to read as follows:

(7-a) "Sexually motivated conduct" means any conduct involving the intent to arouse or gratify the sexual desire of any person immediately before, during, or immediately after the commission of an offense.

(8) "Sexually violent offense" means:

(A) an offense under Section 21.11(a)(1), 22.011, or 22.021, Penal Code;

(B) an offense under Section 20.04(a)(4), Penal Code, if the person [~~defendant~~] committed the offense with the intent to violate or abuse the victim sexually;

(C) an offense under Section 30.02, Penal Code, if the offense is punishable under Subsection (d) of that section and the person [~~defendant~~] committed the offense with the intent to commit an offense listed in Paragraph (A) or (B);

(D) an offense under Section 19.02 or 19.03, Penal Code, that, during the guilt or innocence phase or the punishment phase for the offense, during the adjudication or

disposition of delinquent conduct constituting the offense, or subsequently during a civil commitment proceeding under Subchapter D, is determined beyond a reasonable doubt to have been based on sexually motivated conduct;

(E) [~~(D)~~] an attempt, conspiracy, or solicitation, as defined by Chapter 15, Penal Code, to commit an offense listed in Paragraph (A), (B), [~~(C)~~], or (D);

(F) [~~(E)~~] an offense under prior state law that contains elements substantially similar to the elements of an offense listed in Paragraph (A), (B), (C), [~~(D)~~], or (E); or

(G) [~~(F)~~] an offense under the law of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar to the elements of an offense listed in Paragraph (A), (B), (C), [~~(D)~~], or (E).

SECTION 2. Subsections (a) and (b), Section 841.021, Health and Safety Code, are amended to read as follows:

(a) Before the person's anticipated release date, the Texas Department of Criminal Justice shall give to the multidisciplinary team established under Section 841.022 written notice of the anticipated release of a person who:

(1) is serving a sentence for:

(A) a sexually violent offense described by Section 841.002(8)(A), (B), or (C); or

(B) what is, or as described by this chapter what the department reasonably believes may be determined to be, a sexually violent offense described by Section 841.002(8)(D); and

(2) may be a repeat sexually violent offender.

1 (b) Before the person's anticipated discharge date, the
2 Texas Department of Mental Health and Mental Retardation shall give
3 to the multidisciplinary team established under Section 841.022
4 written notice of the anticipated discharge of a person who:

5 (1) is committed to the department after having been
6 adjudged not guilty by reason of insanity of:

7 (A) a sexually violent offense described by
8 Section 841.002(8)(A), (B), or (C); or

9 (B) what is, or as described by this chapter what
10 the department reasonably believes may be determined to be, a
11 sexually violent offense described by Section 841.002(8)(D); and

12 (2) may be a repeat sexually violent offender.

13 SECTION 3. Subsections (a) and (d), Section 841.082, Health
14 and Safety Code, are amended to read as follows:

15 (a) Before entering an order directing a person's
16 outpatient civil commitment, the judge shall impose on the person
17 requirements necessary to ensure the person's compliance with
18 treatment and supervision and to protect the community. The
19 requirements shall include:

20 (1) requiring the person to reside in a Texas
21 residential facility under contract with the council or at another
22 [particular] location or facility approved by the council;

23 (2) prohibiting the person's contact with a victim or
24 potential victim of the person;

25 (3) prohibiting the person's possession or use of
26 alcohol, inhalants, or a controlled substance;

27 (4) requiring the person's participation in and

1 compliance with a specific course of treatment;

2 (5) requiring the person to:

3 (A) submit to tracking under a particular type of
4 tracking service and to any other appropriate supervision; and

5 (B) refrain from tampering with, altering,
6 modifying, obstructing, or manipulating the tracking equipment;

7 (6) prohibiting the person from changing the person's
8 residence without prior authorization from the judge and from
9 leaving the state without that prior authorization;

10 (7) if determined appropriate by the judge,
11 establishing a child safety zone in the same manner as a child
12 safety zone is established by a judge under Section 13B, Article
13 42.12, Code of Criminal Procedure, and requiring the person to
14 comply with requirements related to the safety zone;

15 (8) requiring the person to notify the case manager
16 immediately but in any event within 24 hours of any change in the
17 person's status that affects proper treatment and supervision,
18 including a change in the person's physical health or job status and
19 including any incarceration of the person; and

20 (9) any other requirements determined necessary by the
21 judge.

22 (d) The court [~~Immediately after the case becomes final for~~
23 ~~purposes of appeal, the judge shall transfer jurisdiction of the~~
24 ~~case to a district court, other than a family district court, having~~
25 ~~jurisdiction in the county in which the person is residing, except~~
26 ~~that the judge~~] retains jurisdiction of the case with respect to a
27 civil commitment proceeding conducted under Subchapters F and G.

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

4 (c) The council shall enter into appropriate memoranda of
5 understanding [~~an interagency agreement~~] with the Texas Department
6 of Public Safety for the provision of a tracking service and for
7 assistance in the preparation of criminal complaints, warrants, and
8 related documents and in the apprehension and arrest of a person.

9 (c-1) Notwithstanding Subsection (c) or any other provision
10 of this subchapter, the council shall provide through the case
11 management system any supervision or tracking service required
12 under this chapter for persons residing in Dallas, Harris, or
13 Tarrant County. The council shall provide the tracking service
14 under this subsection through two employees of the Department of
15 State Health Services. Any tracking personnel used by the
16 department for purposes of this chapter must be approved by the
17 council.

18 (c-2) If the equipment necessary to implement the tracking
19 [~~that~~] service is available through a contract entered into by the
20 Texas Building and Procurement Commission, the Department of Public
21 Safety or the council, as appropriate, shall acquire that equipment
22 through that contract.

23 (d) The council shall enter into appropriate memoranda of
24 understanding [~~an interagency agreement with the Texas Department~~
25 ~~of Criminal Justice~~] for any necessary supervised housing. The
26 council shall reimburse the applicable provider [~~that department~~]
27 for housing costs under this section. The committed person may not

1 be housed for any period of time in a mental health facility, state
2 school, or community center, unless the placement results from a
3 commitment of the person to that facility, school, or center by
4 governmental action. In this subsection:

5 (1) "Community center" means a center established
6 under Subchapter A, Chapter 534.

7 (2) "Mental health facility" has the meaning assigned
8 by Section 571.003.

9 (3) "State school" has the meaning assigned by Section
10 531.002.

11 SECTION 5. Subsections (a) and (b), Section 841.145, Health
12 and Safety Code, are amended to read as follows:

13 (a) At the person's own expense, a [A] person who is
14 examined under this chapter may retain an expert to perform an
15 examination or participate in a civil commitment proceeding on the
16 person's behalf, including a biennial examination or other civil
17 commitment proceeding to assess the person's status as a sexually
18 violent predator.

19 (b) On the request of an indigent person examined under this
20 chapter, the judge shall determine whether expert services for the
21 person are necessary. If the judge determines that the services are
22 necessary, the judge shall appoint an expert to perform an
23 examination or participate in a civil commitment proceeding on the
24 person's behalf and shall approve compensation for the expert as
25 appropriate under Subsection (c).

26 SECTION 6. Section 841.150, Health and Safety Code, is
27 amended to read as follows:

1 Sec. 841.150. EFFECT OF ~~[CERTAIN]~~ SUBSEQUENT COMMITMENT OR
2 CONFINEMENT ~~[CONVICTIONS, JUDGMENTS, OR VERDICTS]~~ ON ORDER OF CIVIL
3 COMMITMENT. (a) ~~[Except as provided by Subsection (b), the~~
4 ~~following convictions, judgments, or verdicts do not affect an~~
5 ~~order of civil commitment under this chapter:~~

6 ~~[(1) a conviction for a felony if a sentence is not~~
7 ~~imposed;~~

8 ~~[(2) a conviction for a misdemeanor, regardless of~~
9 ~~whether a sentence is imposed; and~~

10 ~~[(3) a judgment or verdict of not guilty by reason of~~
11 ~~insanity for any offense absent a corresponding commitment to the~~
12 ~~Texas Department of Mental Health and Mental Retardation.~~

13 ~~[(b)]~~ The ~~[statutory]~~ duties imposed by this chapter are
14 suspended for the duration of any confinement of a person, or any
15 commitment of a person to a community center, mental health
16 facility, or state school, by governmental action ~~[who receives a~~
17 ~~conviction described by Subsection (a)(2)].~~

18 (b) In this section:

19 (1) "Community center" means a center established
20 under Subchapter A, Chapter 534.

21 (2) "Mental health facility" has the meaning assigned
22 by Section 571.003.

23 (3) "State school" has the meaning assigned by Section
24 531.002.

25 SECTION 7. The following provisions are repealed:

26 (1) Subsection (b), Section 841.082, Health and Safety
27 Code; and

1 (2) Section 841.084, Health and Safety Code.

2 SECTION 8. (a) The Council on Sex Offender Treatment shall
3 study the ways in which sexually violent predators, as defined by
4 Section 841.002, Health and Safety Code, and other persons who
5 commit sexually violent offenses, as defined by Article 62.01, Code
6 of Criminal Procedure, use the Internet to meet or otherwise
7 establish contact with potential victims.

8 (b) Not later than September 1, 2006, the Council on Sex
9 Offender Treatment shall report the results of the study to the
10 criminal justice division of the governor's office and to the
11 legislature and shall include with the report recommendations for
12 ensuring the safety of residents of this state from sexually
13 violent predators or offenders who use the Internet to facilitate
14 the commission of sex offenses.

15 SECTION 9. The change in law made by this Act applies only
16 to an individual who on or after September 1, 2005, is serving a
17 sentence in the Texas Department of Criminal Justice or is
18 committed to the Texas Department of Mental Health and Mental
19 Retardation for an offense committed before, on, or after the
20 effective date of this Act.

21 SECTION 10. This Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 912 passed the Senate on April 26, 2005, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 23, 2005, by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 912 passed the House, with amendments, on May 19, 2005, by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor