

By: Shapiro

S.B. No. 912

A BILL TO BE ENTITLED

AN ACT

relating to the civil commitment of 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, 19.03, 20.03, or 20.04, 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

1 subsequently during a civil commitment proceeding under Subchapter  
2 D, is determined beyond a reasonable doubt to have been based on  
3 sexually motivated conduct;

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

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

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

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

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

20 (1) is serving a sentence for:

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

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

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

27 (b) Before the person's anticipated discharge date, the

1 Texas Department of Mental Health and Mental Retardation shall give  
2 to the multidisciplinary team established under Section 841.022  
3 written notice of the anticipated discharge of a person who:

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

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

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

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

12 SECTION 3. Section 841.082(d), Health and Safety Code, is  
13 amended to read as follows:

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

20 SECTION 4. Sections 841.083(c) and (d), Health and Safety  
21 Code, are amended to read as follows:

22 (c) The council shall contract for the provision of a  
23 tracking service through the case management system. The council  
24 shall enter into a memorandum of understanding ~~[an interagency~~  
25 ~~agreement]~~ with the Texas Department of Public Safety for  
26 assistance in the preparation of criminal complaints, warrants, and  
27 related documents and in the apprehension and arrest of a person

committed under this chapter who violates an order issued under this chapter ~~[for the provision of a tracking service. If the equipment necessary to implement that service is available through a contract entered into by the Texas Building and Procurement Commission, the Department of Public Safety shall acquire that equipment through that contract].~~

(d) The council shall enter into appropriate memoranda of understanding ~~[an interagency agreement with the Texas Department of Criminal Justice]~~ for any necessary supervised housing. The council shall reimburse the applicable provider ~~[that department]~~ for housing costs under this section. The committed person may not be 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 under other law. In this subsection:

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

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

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

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

(a) At the person's own expense, a ~~[A]~~ person who is examined under this chapter may retain 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) On the request of an indigent person examined under this chapter, the judge shall determine whether expert services for the person are necessary. If the judge determines that the services are necessary, the judge shall appoint an expert to perform an examination or participate in a civil commitment proceeding on the person's behalf and shall approve compensation for the expert as appropriate under Subsection (c).

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

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

~~[(1) a conviction for a felony if a sentence is not imposed,~~

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

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

~~[(b)]~~ The ~~[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 under other law

1 ~~[who receives a conviction described by Subsection (a)(2)].~~

2 (b) In this section:

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

5 (2) "Mental health facility" has the meaning assigned  
6 by Section 571.003.

7 (3) "State school" has the meaning assigned by Section  
8 531.002.

9 SECTION 7. Section 841.084, Health and Safety Code, is  
10 repealed.

11 SECTION 8. The change in law made by this Act applies only  
12 to an individual who on or after September 1, 2005, is serving a  
13 sentence in the Texas Department of Criminal Justice or is  
14 committed to the Texas Department of Mental Health and Mental  
15 Retardation for an offense committed before, on, or after the  
16 effective date of this Act.

17 SECTION 9. This Act takes effect September 1, 2005.