

By: Shapiro S.B. No. 912  
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COMMITTEE SUBSTITUTE FOR S.B. No. 912 By: Williams

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 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.

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

(1) is committed to the department after having been

adjudged not guilty by reason of insanity of:

(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.

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

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

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

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

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

(4) requiring the person's participation in and compliance with a specific course of treatment;

(5) requiring the person to:

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

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

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

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

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

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

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

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

(c) The council shall enter into appropriate memoranda of understanding [an interagency agreement] with the Texas Department of Public Safety 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) Notwithstanding Subsection (c) or any other provision of this subchapter, the council shall 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 council shall provide the tracking service under this subsection through the Department of State Health Services. Any tracking personnel used by the department for purposes of this chapter must be approved by the council.

(c-2) If the equipment necessary to implement the tracking [that] service is available through a contract entered into by the Texas Building and Procurement Commission, the Department of Public Safety or the council, as appropriate, 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, including a proceeding initiated under Article 46.03 or Chapter 46B, Code of Criminal Procedure. 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. Subsections (a) and (b), Section 841.145, 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, including a proceeding initiated under Article 46.03 or Chapter 46B, Code of Criminal Procedure ~~[who receives a conviction described by Subsection (a)(2)].~~

(b) In this section:

(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 7. The following provisions are repealed:

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

(2) Section 841.084, Health and Safety Code.

SECTION 8. The change in law made by this Act applies only to an individual who on or after September 1, 2005, is serving a sentence in the Texas Department of Criminal Justice or is committed to the Texas Department of Mental Health and Mental

C.S.S.B. No. 912  
4-1 Retardation for an offense committed before, on, or after the  
4-2 effective date of this Act.  
4-3 SECTION 9. This Act takes effect September 1, 2005.  
4-4 \* \* \* \* \*