

SENATE AMENDMENTS

2nd Printing

By: England

H.B. No. 2034

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of sex offender treatment providers.

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

SECTION 1. Section 110.001, Occupations Code, is amended by amending Subdivisions (6) and (7) and by adding Subdivision (8) to read as follows:

(6) "Sex offender" means a person who:

(A) is convicted of committing or adjudicated to have committed a sex crime under state or federal law;

(B) is awarded deferred adjudication for a sex crime under state or federal law; or

(C) is convicted of, adjudicated to have committed, or awarded deferred adjudication for an offense that is based on sexually motivated conduct [~~admits to having violated state or federal law with regard to sexual conduct, or~~

~~[(D) experiences or evidences a paraphiliae disorder as defined by the Revised Diagnostic and Statistical Manual, including any subsequent revision of that manual].~~

(7) "Sex offender treatment provider" means a person, licensed by the council and recognized based on training and experience to provide assessment and treatment to adult sex offenders or juveniles with sexual behavioral problems who have been convicted, adjudicated, awarded deferred adjudication, or referred by a state agency or a court [~~or certified to practice in~~

1 ~~this state, including a physician, psychiatrist, psychologist,~~
2 ~~licensed professional counselor, licensed marriage and family~~
3 ~~therapist, or social worker, who provides mental health or medical~~
4 ~~services for rehabilitation of sex offenders].~~

5 (8) "Sexually motivated conduct" has the meaning
6 assigned by Section 841.002, Health and Safety Code.

7 SECTION 2. Section 110.158, Occupations Code, is amended to
8 read as follows:

9 Sec. 110.158. RULEMAKING. (a) The council may adopt rules
10 consistent with this chapter. In adopting rules, the council
11 shall:

12 (1) consider the rules and procedures of the board and
13 the department; and

14 (2) adopt procedural rules consistent with similar
15 existing rules and procedures of the board or the department.

16 (b) A sex offender treatment provider licensed under this
17 chapter is subject to the rules of the council, in relation to the
18 person's provision of sex offender treatment, rather than the rules
19 of the licensing entity by which the provider is licensed or
20 otherwise regulated.

21 SECTION 3. Section 110.301, Occupations Code, is amended by
22 amending Subsection (a) and adding Subsection (c) to read as
23 follows:

24 (a) A person may not provide sex offender treatment [~~a~~
25 ~~rehabilitation service]~~ or act as a sex offender treatment provider
26 unless the person is licensed under this chapter.

27 (c) This section does not apply to a physician whose

1 treatment of a sex offender is limited to prescribing medication to
2 the sex offender.

3 SECTION 4. Section 110.001(5), Occupations Code, is
4 repealed.

5 SECTION 5. This Act takes effect September 1, 2007.

ADOPTED

MAY 22 2007

By: *Ernesto Rojas*

Henry Spaw
Secretary of the Senate

H.B. No. 2034

Substitute the following for H.B. No. 2034

By: *Devel*

C.S. H.B. No. 2034

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1 AN ACT

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

4 SECTION 1. Section 110.001, Occupations Code, is amended
5 by amending Subdivisions (6) and (7) and by adding Subdivision
6 (8) to read as follows:

7 (6) "Sex offender" means a person who:

8 (A) is convicted of committing or adjudicated to
9 have committed a sex crime under state or federal law;

10 (B) is awarded deferred adjudication for a sex
11 crime under state or federal law; or

12 (C) is convicted of, adjudicated to have
13 committed, or awarded deferred adjudication for an offense that

14 is based on sexually motivated conduct [admits to having
15 violated state or federal law with regard to sexual conduct; or

16 [~~(D) experiences or evidences a paraphiliae~~
17 ~~disorder as defined by the Revised Diagnostic and Statistical~~
18 ~~Manual, including any subsequent revision of that manual].~~

19 (7) "Sex offender treatment provider" means a person,
20 licensed by the council and recognized based on training and
21 experience to provide assessment and treatment to adult sex
22 offenders or juveniles with sexual behavioral problems who have
23 been convicted, adjudicated, awarded deferred adjudication, or

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1 referred by a state agency or a court, and licensed in this
2 state [or certified] to practice as [in this state, including] a
3 physician, psychiatrist, psychologist, psychological associate,
4 provisionally licensed psychologist, licensed professional
5 counselor, licensed professional counselor intern, licensed
6 marriage and family therapist, licensed marriage and family
7 associate, licensed clinical social worker, licensed master [or]
8 social worker under a clinical supervision plan approved by the
9 Texas State Board of Social Worker Examiners, or advanced
10 practice nurse recognized as a psychiatric clinical nurse
11 specialist or psychiatric mental health nurse practitioner, who
12 provides mental health or medical services for rehabilitation of
13 sex offenders.

14 (8) "Sexually motivated conduct" has the meaning
15 assigned by Section 841.002, Health and Safety Code.

16 SECTION 2. Subchapter A, Chapter 110, Occupations Code, is
17 amended by adding Section 110.002 to read as follows:

18 Sec. 110.002. ADJUNCT THERAPY. This chapter does not
19 apply to a person licensed to practice in this state who
20 provides adjunct therapy.

21 SECTION 3. Section 110.158, Occupations Code, is amended
22 to read as follows:

23 Sec. 110.158. RULEMAKING. (a) The council may adopt rules
24 consistent with this chapter. In adopting rules, the council
25 shall:

26 (1) consider the rules and procedures of the board

25

1 and the department; and

2 (2) adopt procedural rules consistent with similar
3 existing rules and procedures of the board or the department.

4 (b) A sex offender treatment provider licensed under this
5 chapter is subject to the rules of the council governing
6 confidentiality and the release and exchange of information
7 rather than the applicable rules of the licensing entity by
8 which the provider is licensed or otherwise regulated. This
9 subsection does not apply to the prescribing of a drug, remedy,
10 or clinical supply by a physician licensed under Subtitle B.

11 SECTION 4. Section 110.301, Occupations Code, is amended
12 by amending Subsection (a) and adding Subsection (c) to read as
13 follows:

14 (a) A person may not provide sex offender treatment [~~a~~
15 ~~rehabilitation service~~] or act as a sex offender treatment
16 provider unless the person is licensed under this chapter.

17 (c) This section does not apply to a physician whose
18 treatment of a sex offender is limited to prescribing medication
19 to the sex offender.

20 SECTION 5. Section 110.001(5), Occupations Code, is
21 repealed.

22 SECTION 6. This Act takes effect September 1, 2007.

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ADOPTED

FLOOR AMENDMENT NO. 1

MAY 22 2007

Lately Spaul
Secretary of the Senate

BY: *Frederic Hagins*

1 Amend C.S.H.B. No. 2034 (senate committee printing) by
2 adding the following appropriately numbered SECTIONS to the bill
3 and renumbering the subsequent SECTIONS of the bill accordingly:

4 SECTION ____ . Section 841.002, Health and Safety Code, is
5 amended by amending Subdivisions (1) and (5) and adding
6 Subdivision (3-a) to read as follows:

7 (1) "Attorney representing the state" means an
8 attorney employed by the civil division of the special [prison]
9 prosecution unit to initiate and pursue a civil commitment
10 proceeding under this chapter.

11 (3-a) "Civil commitment proceeding" means a trial or
12 hearing conducted under Subchapter D, F, or G.

13 (5) "Predatory act" means an act [~~that is committed~~
14 ~~for the purpose of victimization and that is~~] directed toward
15 individuals, including family members, [+

16 [~~(A) a stranger,~~

17 [~~(B) a person of casual acquaintance with whom~~
18 ~~no substantial relationship exists,~~ or

19 [~~(C) a person with whom a relationship has been~~
20 ~~established or promoted]~~ for the primary purpose of
21 victimization.

22 SECTION ____ . Section 841.004, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 841.004. SPECIAL [~~PRISON~~] PROSECUTION UNIT. The
25 civil [~~A-special~~] division of the special [~~prison~~] prosecution
26 unit, separate from that part of the unit responsible for
27 prosecuting criminal cases, is responsible for initiating and
28 pursuing a civil commitment proceeding under this chapter.

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1 SECTION _____. (a) Section 841.061, Health and Safety Code,
2 is amended by adding Subsection (g) to read as follows:

3 (g) A judge assigned to preside over a trial under this
4 subchapter is not subject to an objection under Section 74.053,
5 Government Code, other than an objection made under Section
6 74.053(d), Government Code.

7 (b) Notwithstanding any other provision of this Act, this
8 section takes effect immediately if this Act receives a vote of
9 two-thirds of all the members elected to each house, as provided
10 by Section 39, Article III, Texas Constitution. If this Act
11 does not receive the vote necessary for immediate effect, this
12 section takes effect September 1, 2007.

13 SECTION _____. Section 841.085, Health and Safety Code, is
14 amended to read as follows:

15 Sec. 841.085. CRIMINAL PENALTY; PROSECUTION OF OFFENSE.

16 (a) A person commits an offense if, after having been
17 adjudicated and civilly committed as a sexually violent predator
18 under this chapter, the person violates a civil commitment
19 requirement imposed under Section 841.082.

20 (b) An offense under this section is a felony of the third
21 degree.

22 (c) At the request of the local prosecuting attorney, an
23 attorney employed by the civil division of the special
24 prosecution unit described by Section 841.004 may assist in the
25 trial of an offense under this section.

26 SECTION _____. Section 841.147, Health and Safety Code, is
27 amended to read as follows:

28 Sec. 841.147. IMMUNITY. The following persons are immune
29 from liability for good faith conduct under this chapter:

30 (1) an employee or officer of the Texas Department of

1 Criminal Justice, the [~~Texas~~] Department of State Health
2 Services [~~Mental Health and Mental Retardation~~], the Department
3 of Aging and Disability Services [~~Texas Department of Health~~],
4 or the council;

5 (2) a member of the multidisciplinary team
6 established under Section 841.022;

7 (3) an employee of the civil division of the special
8 [~~prison~~] prosecution unit charged with initiating and pursuing
9 civil commitment proceedings under this chapter; and

10 (4) a person providing, or contracting, appointed, or
11 volunteering to perform, a tracking service or another service
12 under this chapter.

13 SECTION ____ . Chapter 13, Code of Criminal Procedure, is
14 amended by adding Article 13.315 to read as follows:

15 Art. 13.315. FAILURE TO COMPLY WITH SEXUALLY VIOLENT
16 PREDATOR CIVIL COMMITMENT REQUIREMENT. An offense under Section
17 841.085, Health and Safety Code, may be prosecuted in the county
18 in which any element of the offense occurs or in Montgomery
19 County.

20 SECTION ____ . (a) Except as provided by Subsection (b) of
21 this section, the change in law made by this Act applies only to
22 an individual who on or after September 1, 2007, is serving a
23 sentence in the Texas Department of Criminal Justice or is
24 committed to the Department of State Health Services or the
25 Department of Aging and Disability Services for an offense
26 committed before, on, or after the effective date of this Act.

27 (b) The change in law made by this Act in adding
28 Subsection (g), Section 841.061, Health and Safety Code, applies
29 to a petition alleging predator status that is filed on or after
30 the effective date of this Act.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 18, 2007

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2034** by England (Relating to the regulation of sex offender treatment providers.),
Committee Report 2nd House, Substituted

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 537 State Health Services, Department of
LBB Staff: JOB, CL, ES, PP, SSt

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 17, 2007

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2034 by England (Relating to the regulation of sex offender treatment providers.), As
Engrossed

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

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LBB Staff: JOB, CL, ES, PP, SSt

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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 9, 2007

TO: Honorable Jerry Madden, Chair, House Committee on Corrections

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2034 by England (Relating to the regulation of sex offender treatment providers.), **As Introduced**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 537 State Health Services, Department of

LBB Staff: JOB, ES, PP, SSt

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LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

April 5, 2007

TO: Honorable Jerry Madden, Chair, House Committee on Corrections

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2034 by England (Relating to the regulation of sex offender treatment providers.), **As Introduced**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG