

House Bill 2034
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

No equivalent provision.

SECTION __. Chapter 13, Code of Criminal Procedure, is amended by adding Article 13.315 to read as follows:
Art. 13.315. FAILURE TO COMPLY WITH SEXUALLY VIOLENT PREDATOR CIVIL COMMITMENT REQUIREMENT. An offense under Section 841.085, Health and Safety Code, may be prosecuted in the county in which any element of the offense occurs or in Montgomery County.

No equivalent provision.

SECTION __. Section 841.002, Health and Safety Code, is amended by amending Subdivisions (1) and (5) and adding Subdivision (3-a) to read as follows:
(1) "Attorney representing the state" means an attorney employed by the civil division of the special [prison] prosecution unit to initiate and pursue a civil commitment proceeding under this chapter.
(3-a) "Civil commitment proceeding" means a trial or hearing conducted under Subchapter D, F, or G.
(5) "Predatory act" means an act [~~that is committed for the purpose of victimization and that is~~] directed toward individuals, including family members,[:
[~~(A) a stranger;~~
[~~(B) a person of casual acquaintance with whom no substantial relationship exists; or~~
[~~(C) a person with whom a relationship has been established or promoted~~] for the primary purpose of victimization.

House Bill 2034
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

No equivalent provision.

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

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

No equivalent provision.

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

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

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

No equivalent provision.

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

Sec. 841.085. CRIMINAL PENALTY; PROSECUTION OF OFFENSE. (a) A person commits

House Bill 2034
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

an offense if, after having been adjudicated and civilly committed as a sexually violent predator under this chapter, the person violates a civil commitment requirement imposed under Section 841.082.

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

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

No equivalent provision.

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

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

(1) an employee or officer of the Texas Department of Criminal Justice, the ~~[Texas]~~ Department of State Health Services ~~[Mental Health and Mental Retardation]~~, the Department of Aging and Disability Services ~~[Texas Department of Health]~~, or the council;

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

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

(4) a person providing, or contracting, appointed, or volunteering to perform, a tracking service or another

House Bill 2034
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

service under this chapter.

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 paraphiliac 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 this state, including a physician, psychiatrist, psychologist, licensed professional counselor, licensed marriage and family therapist, or social worker, who provides mental health

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 paraphiliac 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, and licensed in this state [or certified] to practice as [in this state, including] a physician, psychiatrist, psychologist, psychological associate, provisionally licensed psychologist, licensed professional

House Bill 2034
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

~~or medical services for rehabilitation of sex offenders].~~

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

No equivalent provision.

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

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

- (1) consider the rules and procedures of the board and the department; and
- (2) adopt procedural rules consistent with similar

SENATE VERSION

counselor, licensed professional counselor intern, licensed marriage and family therapist, licensed marriage and family associate, licensed clinical social worker, licensed master [øø] social worker under a clinical supervision plan approved by the Texas State Board of Social Worker Examiners, or advanced practice nurse recognized as a psychiatric clinical nurse specialist or psychiatric mental health nurse practitioner, who provides mental health or medical services for rehabilitation of sex offenders.

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

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

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

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

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

- (1) consider the rules and procedures of the board and the department; and
- (2) adopt procedural rules consistent with similar

CONFERENCE

House Bill 2034
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

existing rules and procedures of the board or the department.

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

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

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

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

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

No equivalent provision.

SENATE VERSION

existing rules and procedures of the board or the department.

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

SECTION 4. Same as House version.

SECTION 5. Same as House version.

SECTION __. (a) Except as provided by Subsection (b) of this section, the change in law made by this Act applies only to an individual who on or after September

CONFERENCE

House Bill 2034
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

1, 2007, is serving a sentence in the Texas Department of Criminal Justice or is committed to the Department of State Health Services or the Department of Aging and Disability Services for an offense committed before, on, or after the effective date of this Act.

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

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

SECTION 6. Same as House version.