

By: Shapiro

S.B. No. 2035

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of certain criminal sexual offenses and the registration and civil commitment of certain sex offenders in this state; providing a penalty.

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

ARTICLE 1. PROSECUTION OF AND REGISTRATION REQUIREMENTS FOR CERTAIN CRIMINAL SEXUAL OFFENSES

SECTION 1.001. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0149 to read as follows:

Art. 42.0149. FINDING OF INTENT TO COMMIT CERTAIN SEXUAL OFFENSES. In the trial of an offense under Section 20.02, Penal Code, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment of the case if the judge determines that the defendant committed the offense with the intent to commit an offense the conviction of which subjects the defendant to registration under Chapter 62.

SECTION 1.002. Section 5, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (k) to read as follows:

(k) A judge who places on community supervision under this section a defendant charged with an offense under Section 20.02, Penal Code, shall make an affirmative finding of fact and file a statement of that affirmative finding with the papers of the case if the judge determines that the defendant committed the offense with the intent to commit an offense the conviction of which subjects the

defendant to registration under Chapter 62.

SECTION 1.003. Section 11, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (j) to read as follows:

(j) If the court grants community supervision to a defendant who is convicted of or receives a grant of deferred adjudication for an offense under Section 33.021, Penal Code, or who is assigned a numeric risk level of three based on an assessment conducted under Article 62.007, the court as a condition of community supervision shall prohibit the defendant from using the Internet to:

(1) access pornographic material;

(2) access a commercial social networking site, as defined by Article 62.0061(e); or

(3) communicate with one or more individuals for the purpose of promoting sexual relations with an individual who is younger than 18 years of age.

SECTION 1.004. Article 62.001, Code of Criminal Procedure, is amended by amending Subdivisions (5), (6), and (10) and adding Subdivisions (11) and (12) to read as follows:

(5) "Reportable conviction or adjudication" means a conviction or adjudication, including an adjudication of delinquent conduct or a deferred adjudication, that, regardless of the pendency of an appeal, is a conviction for or an adjudication for or based on:

(A) a violation of Section 21.02 (Continuous sexual abuse of young child or children), 21.11 (Indecency with a child), 22.011 (Sexual assault), 22.021 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct), Penal Code;

1 (B) a violation of Section 43.05 (Compelling
2 prostitution), 43.25 (Sexual performance by a child), or 43.26
3 (Possession or promotion of child pornography), Penal Code;

4 (C) a violation of Section 20.04(a)(4)
5 (Aggravated kidnapping), Penal Code, if the actor committed the
6 offense or engaged in the conduct with intent to violate or abuse
7 the victim sexually;

8 (D) a violation of Section 30.02 (Burglary),
9 Penal Code, if ~~[the offense or conduct is punishable under~~
10 ~~Subsection (d) of that section and]~~ the actor committed the offense
11 or engaged in the conduct with intent to commit a felony listed in
12 Paragraph (A) or (C);

13 (E) a violation of Section 20.02 (Unlawful
14 restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping),
15 Penal Code, if, as applicable:

16 (i) the judgment in the case contains an
17 affirmative finding under Article 42.0149 or 42.015; or

18 (ii) the order in the hearing or the papers
19 in the case contain an affirmative finding that:

20 (a) the victim or intended victim was
21 younger than 17 years of age; or

22 (b) the defendant or respondent
23 committed the offense or engaged in the conduct with the intent to
24 commit an offense or engage in conduct the conviction or
25 adjudication of which requires registration under this chapter;

26 (F) the second violation of Section 21.08
27 (Indecent exposure), Penal Code, but not if the second violation

1 results in a deferred adjudication or the functional equivalent of
2 a deferred adjudication;

3 (G) an attempt, conspiracy, or solicitation, as
4 defined by Chapter 15, Penal Code, to commit an offense or engage in
5 conduct listed in Paragraph (A), (B), (C), (D), or (E);

6 (H) a violation of the laws of another state, a
7 federally recognized Indian tribe, a territory of the United
8 States, the United States, or [federal law, the laws of] a foreign
9 country~~[7]~~ or the Uniform Code of Military Justice for or based on
10 the violation of an offense containing elements that are
11 substantially similar to the elements of an offense listed under
12 Paragraph (A), (B), (C), (D), (E), (G), or (J), including a [but not
13 if the] violation that results in a deferred adjudication or the
14 functional equivalent of a deferred adjudication;

15 (I) the second violation of the laws of another
16 state, a federally recognized Indian tribe, a territory of the
17 United States, the United States, or [federal law, the laws of] a
18 foreign country~~[7]~~ or the Uniform Code of Military Justice for or
19 based on the violation of an offense containing elements that are
20 substantially similar to the elements of the offense of indecent
21 exposure, but not if the second violation results in a deferred
22 adjudication or the functional equivalent of a deferred
23 adjudication; or

24 (J) a violation of Section 33.021 (Online
25 solicitation of a minor), Penal Code.

26 (6) "Sexually violent offense" means any of the
27 following offenses committed by a person 17 years of age or older:

1 (A) an offense under Section 21.02 (Continuous
2 sexual abuse of young child or children), 21.11(a)(1) (Indecency
3 with a child), 22.011 (Sexual assault), or 22.021 (Aggravated
4 sexual assault), Penal Code;

5 (B) an offense under Section 43.25 (Sexual
6 performance by a child), Penal Code;

7 (C) an offense under Section 20.04(a)(4)
8 (Aggravated kidnapping), Penal Code, if the defendant committed the
9 offense with intent to violate or abuse the victim sexually;

10 (D) an offense under Section 30.02 (Burglary),
11 Penal Code, if ~~[the offense is punishable under Subsection (d) of~~
12 ~~that section and]~~ the defendant committed the offense with intent
13 to commit a felony listed in Paragraph (A) or (C) of Subdivision
14 (5); or

15 (E) an offense under the laws of another state, a
16 federally recognized Indian tribe, a territory of the United
17 States, the United States, or ~~[federal law, the laws of]~~ a foreign
18 country~~[7]~~ or the Uniform Code of Military Justice if the offense
19 contains elements that are substantially similar to the elements of
20 an offense listed under Paragraph (A), (B), (C), or (D).

21 (10) "Extrajurisdictional registrant" means a person
22 who:

23 (A) is required to register as a sex offender
24 under:

25 (i) the laws of another state, a federally
26 recognized Indian tribe, or a territory of the United States with
27 which the department has entered into a reciprocal registration

1 agreement;

2 (ii) federal law or the Uniform Code of
3 Military Justice; or

4 (iii) the laws of a foreign country; and

5 (B) is not otherwise required to register under
6 this chapter because:

7 (i) the person does not have a reportable
8 conviction for an offense under the laws of the other state, a
9 federally recognized Indian tribe, a territory of the United
10 States, the United States, or ~~[federal law, the laws of]~~ the foreign
11 country~~[7]~~ or the Uniform Code of Military Justice containing
12 elements that are substantially similar to the elements of an
13 offense requiring registration under this chapter; or

14 (ii) the person does not have a reportable
15 adjudication of delinquent conduct based on a violation of an
16 offense under the laws of the other state, a federally recognized
17 Indian tribe, a territory of the United States, the United States,
18 or ~~[federal law, or the laws of]~~ the foreign country containing
19 elements that are substantially similar to the elements of an
20 offense requiring registration under this chapter.

21 (11) "Internet communication identifier" means an
22 electronic mail address or other designation used for
23 self-identification or routing in Internet communication or
24 posting. The term includes a screen name.

25 (12) "Screen name" means any combination of letters,
26 numbers, punctuation marks, or special characters chosen by or for
27 an individual by which the individual is known when communicating

with another individual through the use of the Internet or electronic mail. The term includes an alias, an assumed name, a nickname, and a pseudonym. The term does not include an individual's social security number, date of birth, or personal identification number, unless that information is voluntarily included by the individual in the combination of letters, numbers, punctuation marks, or special characters.

SECTION 1.005. Articles 62.003(a) and (b), Code of Criminal Procedure, are amended to read as follows:

(a) For the purposes of this chapter, the department is responsible for determining whether an offense under the laws of another state, a federally recognized Indian tribe, a territory of the United States, the United States, or ~~[federal law, the laws of]~~ a foreign country~~[7]~~ or the Uniform Code of Military Justice contains elements that are substantially similar to the elements of an offense under the laws of this state.

(b) The department annually shall provide or make available to each prosecuting attorney's office in this state:

(1) the criteria used in making a determination under Subsection (a); and

(2) any existing record or compilation of offenses under the laws of another state, a federally recognized Indian tribe, a territory of the United States, the United States, and ~~[federal law, the laws of]~~ a foreign country~~[7]~~ and the Uniform Code of Military Justice that the department has already determined to contain elements that are substantially similar to the elements of offenses under the laws of this state.

SECTION 1.006. Article 62.005, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsection (j) to read as follows:

(b) The information contained in the database, including the numeric risk level assigned to a person under this chapter, is public information, with the exception of any information:

(1) regarding the person's social security number or ~~[r]~~ driver's license number, or any home, work, or cellular telephone number of the person;

(2) that is described ~~[required]~~ by ~~[the department under]~~ Article 62.051(c)(7) or required by the department under Article 62.051(c)(8); or

(3) that would identify the victim of the offense for which the person is subject to registration.

(j) The department shall release all relevant information described by Subsection (a) to the attorney general on the attorney general's written request providing the department with a person's name, driver's license number, personal identification certificate number, license plate number, or Internet communication identifier.

SECTION 1.007. Subchapter A, Chapter 62, Code of Criminal Procedure, is amended by adding Article 62.0061 to read as follows:

Art. 62.0061. REQUEST FOR INTERNET COMMUNICATION IDENTIFIERS BY SOCIAL NETWORKING SITES AND INTERNET SERVICE PROVIDERS. (a) A commercial social networking site or Internet service provider providing service in this state shall request from the department, in the manner and form prescribed by the department

1 by rule, all Internet communication identifiers belonging to a
2 person listed in the computerized central database.

3 (b) On receipt of a request submitted under Subsection (a)
4 containing a person's name, driver's license number, personal
5 identification certificate number, or Internet communication
6 identifier, the department shall:

7 (1) confirm whether the person is required to register
8 under this chapter; and

9 (2) provide the networking site or service provider
10 with all Internet communication identifiers listed for the person
11 in the computerized central database.

12 (c) A commercial social networking site or Internet service
13 provider:

14 (1) may use information received under Subsection (b)
15 only to:

16 (A) prescreen persons seeking to use the site or
17 service; or

18 (B) preclude persons registered under this
19 chapter from using the site or service; and

20 (2) may not release or disclose any information
21 received under Subsection (b) that the networking site or service
22 provider obtained solely under Subsection (b).

23 (d) A commercial social networking site or Internet service
24 provider that receives information under Subsection (b) promptly
25 shall notify the department, the attorney general, and appropriate
26 local law enforcement authorities of any possible criminal activity
27 engaged in by a person with respect to whom information is provided

1 to the networking site or the service provider under Subsection
2 (b). The department, attorney general, and authorities shall
3 establish a uniform procedure for exchanging information regarding
4 any notification provided by a networking site or service provider
5 under this subsection.

6 (e) In this section, "commercial social networking site"
7 means any business, organization, or other similar entity operating
8 a website that permits persons to become registered users for the
9 purpose of establishing personal relationships with other users
10 through direct or real time communication with other users or the
11 creation of web pages or profiles available to the public or to
12 other users. The term does not include an electronic mail program
13 or a message board program.

14 (f) A commercial social networking site or Internet service
15 provider that fails to request information under Subsection (a),
16 uses information received under Subsection (b) in a manner other
17 than a manner described by Subsection (c)(1), or releases or
18 discloses information in violation of Subsection (c)(2) commits a
19 Class A misdemeanor.

20 SECTION 1.008. Article 62.051(c), Code of Criminal
21 Procedure, is amended to read as follows:

22 (c) The registration form shall require:

23 (1) the person's full name, ~~[each alias]~~ date of
24 birth, sex, race, height, weight, eye color, hair color, social
25 security number, driver's license number, shoe size, and home
26 address, any home, work, or cellular telephone number of the
27 person, and each alias, assumed name, nickname, or pseudonym used

1 by the person;

2 (2) a recent color photograph or, if possible, an
3 electronic digital image of the person and a complete set of the
4 person's fingerprints;

5 (3) the type of offense the person was convicted of,
6 the age of the victim, the date of conviction, and the punishment
7 received;

8 (4) an indication as to whether the person is
9 discharged, paroled, or released on juvenile probation, community
10 supervision, or mandatory supervision;

11 (5) an indication of each license, as defined by
12 Article 62.005(g), that is held or sought by the person;

13 (6) an indication as to whether the person is or will
14 be employed, carrying on a vocation, or a student at a particular
15 public or private institution of higher education in this state or
16 another state, and the name and address of that institution; ~~and~~

17 (7) the identification of any screen name, electronic
18 mail address, instant messaging address, or other Internet
19 communication identifier established or used by the person; and

20 (8) any other information required by the department.

21 SECTION 1.009. Article 62.052(b), Code of Criminal
22 Procedure, is amended to read as follows:

23 (b) The duty to register for an extrajurisdictional
24 registrant expires on the date the person's duty to register would
25 expire under, as applicable:

26 (1) the laws of the other state or the federally
27 recognized Indian tribe, territory of the United States, or foreign

country had the person remained in the applicable jurisdiction; or
(2) ~~[that state or foreign country, under]~~ federal
law~~[7]~~ or ~~[under]~~ the Uniform Code of Military Justice~~[7, as~~
~~applicable]~~.

SECTION 1.010. Article 62.053(f), Code of Criminal
Procedure, is amended to read as follows:

(f) The local law enforcement authority shall include in the
notice to the superintendent of the public school district and to
the administrator of any private primary or secondary school
located in the public school district any information the authority
determines is necessary to protect the public, except:

(1) the person's social security number or ~~[7]~~
driver's license number, or any home, work, or cellular telephone
number of the person; and

(2) any information that would identify the victim of
the offense for which the person is subject to registration.

SECTION 1.011. Article 62.054, Code of Criminal Procedure,
is amended to read as follows:

Art. 62.054. CIRCUMSTANCES REQUIRING NOTICE TO
SUPERINTENDENT OR SCHOOL ADMINISTRATOR. (a) A local law
enforcement authority shall provide notice to the superintendent
and each administrator under Article 62.053(e) or 62.055(f) only
if:

(1) the victim was at the time of the offense a child
younger than 17 years of age or a student enrolled in a public or
private secondary school;

(2) the person subject to registration is a student

1 enrolled in a public or private secondary school; or

2 (3) the basis on which the person is subject to
3 registration is a conviction, a deferred adjudication, or an
4 adjudication of delinquent conduct for an offense under Section
5 43.25 or 43.26, Penal Code, or an offense under the laws of another
6 state, a federally recognized Indian tribe, a territory of the
7 United States, the United States, or a foreign country [~~federal~~
8 ~~law,~~] or the Uniform Code of Military Justice that contains
9 elements substantially similar to the elements of an offense under
10 either of those sections.

11 (b) A local law enforcement authority may not provide notice
12 to the superintendent or any administrator under Article 62.053(e)
13 or 62.055(f) if the basis on which the person is subject to
14 registration is a conviction, a deferred adjudication, or an
15 adjudication of delinquent conduct for an offense under Section
16 25.02, Penal Code, or an offense under the laws of another state, a
17 federally recognized Indian tribe, a territory of the United
18 States, the United States, or a foreign country [~~federal law,~~] or
19 the Uniform Code of Military Justice that contains elements
20 substantially similar to the elements of an offense under that
21 section.

22 SECTION 1.012. Article 62.055(g), Code of Criminal
23 Procedure, is amended to read as follows:

24 (g) The local law enforcement authority shall include in the
25 notice to the superintendent of the public school district and the
26 administrator of any private primary or secondary school located in
27 the public school district any information the authority determines

is necessary to protect the public, except:

(1) the person's social security number or [7] driver's license number, or any home, work, or cellular telephone number of the person; and

(2) any information that would identify the victim of the offense for which the person is subject to registration.

SECTION 1.013. Articles 62.057(a) and (b), Code of Criminal Procedure, are amended to read as follows:

(a) If the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising a person subject to registration under this chapter receives notice [~~information~~] to the effect that the accuracy or completeness of any information contained in the person's registration form has changed or that the person's status has changed in any manner that affects proper supervision of the person, including a change in the person's name, physical health, job or educational status, including higher educational status, incarceration, or terms of release, the supervising officer shall promptly notify the appropriate local law enforcement authority or authorities of that change. If the person required to register intends to change address, the supervising officer shall notify the local law enforcement authorities designated by Article 62.055(b). Not later than the seventh day after the date the supervising officer receives the relevant information, the supervising officer shall notify the local law enforcement authority of any change in the person's job or educational status in which the person:

1 (1) becomes employed, begins to carry on a vocation,
2 or becomes a student at a particular public or private institution
3 of higher education; or

4 (2) terminates the person's status in that capacity.

5 (b) Not later than the seventh day after the date of the
6 change, a person subject to registration under this chapter shall
7 report to the local law enforcement authority designated as the
8 person's primary registration authority by the department any
9 change in:

10 (1) the accuracy or completeness of any information
11 contained in the person's registration form; or

12 (2) the person's name, physical health, or job or
13 educational status, including higher educational status.

14 SECTION 1.014. Article 62.301, Code of Criminal Procedure,
15 is amended by amending Subsection (a) and adding Subsection (c-1)
16 to read as follows:

17 (a) If eligible under Subsection (b), ~~or~~ (c), or (c-1), a
18 person required to register under this chapter may petition the
19 court having jurisdiction over the case for an order exempting the
20 person from registration under this chapter at any time after the
21 person's sentencing or after the person is placed on deferred
22 adjudication community supervision.

23 (c-1)(1) This subsection applies to a person who is:

24 (A) required to register under this chapter only
25 as a result of a single reportable conviction or adjudication,
26 other than an adjudication of delinquent conduct, for an offense
27 under a law described by Article 62.001(5)(H) and containing

1 elements that are substantially similar to the elements of an
2 offense under Section 21.11, 22.011, 22.021, or 43.25, Penal Code;
3 and

4 (B) not required to register as a sex offender
5 under the law described by Article 62.001(5)(H) or is required to
6 register as a sex offender under that law but is eligible under that
7 law to petition a court for an order exempting the person from
8 registration and has not been denied the exemption.

9 (2) A person to whom this subsection applies is
10 eligible, in the manner described by Subsection (a), to petition a
11 district court of the county in which the person's primary
12 registration authority is located. The court may consider the
13 petition only if the petition states and the court finds that the
14 person would have been entitled to the entry of an affirmative
15 finding under Article 42.017 or Section 5(g), Article 42.12, as
16 appropriate, had the conviction or placement on deferred
17 adjudication community supervision occurred under the laws of this
18 state on or after September 1, 2001.

19 SECTION 1.015. Article 62.402, Code of Criminal Procedure,
20 is amended to read as follows:

21 Art. 62.402. DETERMINATION OF MINIMUM REQUIRED
22 REGISTRATION PERIOD. (a) The department [~~council~~] by rule shall
23 determine the minimum required registration period under the Adam
24 Walsh Child Protection and Safety Act of 2006 (42 U.S.C. Section
25 16901 et seq.) [~~14071 (Jacob Wetterling Crimes Against Children and~~
26 ~~Sexually Violent Offender Registration Program)] for each~~
27 reportable conviction or adjudication under this chapter, if this

1 state is to receive the maximum amount of federal money available to
2 a state as described by that law.

3 (b) After determining the minimum required registration
4 period for each reportable conviction or adjudication under
5 Subsection (a), the department [~~council~~] shall compile and publish
6 a list of reportable convictions or adjudications for which a
7 person must register under this chapter for a period that exceeds
8 the minimum required registration period under federal law.

9 (c) To the extent possible, the department [~~council~~] shall
10 periodically verify with the Office of Sex Offender Sentencing,
11 Monitoring, Apprehending, Registering, and Tracking [~~Bureau of~~
12 ~~Justice Assistance~~] or another appropriate federal agency the
13 accuracy of the list of reportable convictions or adjudications
14 described by Subsection (b).

15 SECTION 1.016. Section 54.04, Family Code, is amended by
16 adding Subsection (y) to read as follows:

17 (y) A judge who orders a disposition under this section for
18 delinquent conduct based on a violation of Section 20.02, Penal
19 Code, shall make an affirmative finding of fact and enter the
20 affirmative finding in the order if the judge determines that the
21 respondent engaged in the conduct with the intent to engage in
22 conduct the adjudication of which subjects the respondent to
23 registration under Chapter 62.

24 SECTION 1.017. Subchapter F, Chapter 508, Government Code,
25 is amended by adding Section 508.1861 to read as follows:

26 Sec. 508.1861. PROHIBITIONS ON INTERNET ACCESS FOR CERTAIN
27 SEX OFFENDERS. If the parole panel releases on parole or to

1 mandatory supervision a person who is serving a sentence for an
2 offense under Section 33.021, Penal Code, or who is assigned a
3 numeric risk level of three based on an assessment conducted under
4 Article 62.007, Code of Criminal Procedure, the parole panel as a
5 condition of parole or mandatory supervision shall prohibit the
6 release from using the Internet to:

- 7 (1) access pornographic material;
8 (2) access a commercial social networking site, as
9 defined by Article 62.0061(e), Code of Criminal Procedure; or
10 (3) communicate with one or more individuals for the
11 purpose of promoting sexual relations with an individual who is
12 younger than 18 years of age.

13 SECTION 1.018. Article 42.0149, Code of Criminal Procedure,
14 Section 5(k), Article 42.12, Code of Criminal Procedure, and
15 Section 54.04(y), Family Code, as added by this Act, apply only to a
16 judgment of conviction entered on or after the effective date of
17 this Act, a grant of deferred adjudication made on or after the
18 effective date of this Act, or a disposition of delinquent conduct
19 made on or after the effective date of this Act.

20 SECTION 1.019. The changes in law made by this Act in adding
21 Section 11(j), Article 42.12, Code of Criminal Procedure, and
22 Section 508.1861, Government Code, apply only to a person who is
23 placed on community supervision or released on parole or to
24 mandatory supervision on or after the effective date of this Act.

25 SECTION 1.020. (a) The change in law made by this Act in
26 amending Chapter 62, Code of Criminal Procedure, applies to any
27 person who, on or after the effective date of this Act, is subject

1 to registration under that chapter regardless of whether the
2 offense or conduct for which the person is subject to registration
3 was committed or engaged in before, on, or after the effective date
4 of this Act.

5 (b) The Texas Department of Public Safety is not required to
6 implement, and a person is not required to comply with Article
7 62.0061, Code of Criminal Procedure, as added by this Act, before
8 January 1, 2010.

9 ARTICLE 2. CIVIL COMMITMENT OF SEXUALLY VIOLENT PREDATORS

10 SECTION 2.001. Subtitle B, Title 4, Government Code, is
11 amended by adding Chapter 420A to read as follows:

12 CHAPTER 420A. OFFICE OF VIOLENT SEX OFFENDER MANAGEMENT

13 Sec. 420A.001. DEFINITIONS. In this chapter:

14 (1) "Board" means the governing board of the Office of
15 Violent Sex Offender Management.

16 (2) "Office" means the Office of Violent Sex Offender
17 Management.

18 Sec. 420A.002. OFFICE; GOVERNING BOARD. (a) The Office of
19 Violent Sex Offender Management is a state agency.

20 (b) The office is governed by a board composed of the
21 following three members appointed by the governor:

22 (1) one member experienced in the management of sex
23 offenders;

24 (2) one member experienced in the investigation or
25 prosecution of sex offenses; and

26 (3) one member experienced in counseling or advocating
27 on behalf of victims of sexual assault.

1 (c) Members of the board serve staggered two-year terms.
2 Two members' terms expire February 1 of each even-numbered year and
3 one member's term expires February 1 of each odd-numbered year.

4 (d) A member of the board is entitled to travel expenses
5 incurred in performing official duties and to a per diem equal to
6 the maximum amount allowed on January 1 of that year for federal
7 employees per diem for federal income tax purposes, subject to the
8 same limitations provided for members of state boards and
9 commissions in the General Appropriations Act.

10 Sec. 420A.003. PRESIDING OFFICER; MEETINGS. (a) The
11 governor shall designate a member of the board as presiding
12 officer. The presiding officer serves at the discretion of the
13 governor.

14 (b) The board shall meet at least once each month and at
15 other times at the call of the presiding officer.

16 Sec. 420A.004. SUNSET PROVISION. The Office of Violent Sex
17 Offender Management is subject to Chapter 325 (Texas Sunset Act).
18 Unless continued in existence as provided by that chapter, the
19 office is abolished and this chapter expires September 1, 2021.

20 Sec. 420A.005. STAFF. The office may select and employ a
21 general counsel, staff attorneys, and other staff necessary to
22 perform the office's functions.

23 Sec. 420A.006. SALARY CAREER LADDER FOR CASE MANAGERS. (a)
24 The board shall adopt a salary career ladder for case managers. The
25 salary career ladder must base a case manager's salary on the
26 manager's classification and years of service with the office.

27 (b) For purposes of the salary schedule, the office shall

1 classify all case manager positions as Case Manager I, Case Manager
2 II, Case Manager III, Case Manager IV, or Case Manager V.

3 (c) Under the salary career ladder adopted under Subsection
4 (a), a case manager to whom the schedule applies and who received an
5 overall evaluation of at least satisfactory in the case manager's
6 most recent annual evaluation is entitled to an annual salary
7 increase, during each of the case manager's first 10 years of
8 service in a designated case manager classification as described by
9 Subsection (b), equal to one-tenth of the difference between:

10 (1) the case manager's current annual salary; and

11 (2) the minimum annual salary of a case manager in the
12 next highest classification.

13 Sec. 420A.007. POWERS AND DUTIES. The office shall perform
14 appropriate functions related to the sex offender civil commitment
15 program provided under Chapter 841, Health and Safety Code,
16 including functions related to the provision of treatment and
17 supervision to civilly committed sex offenders.

18 SECTION 2.002. Sections 841.002(3) and (4), Health and
19 Safety Code, are amended to read as follows:

20 (3) "Case manager" means a person employed by or under
21 contract with the office [~~council~~] to perform duties related to
22 outpatient treatment and supervision of a person committed under
23 this chapter.

24 (4) "Office" [~~"Council"~~] means the Office of Violent
25 Sex Offender Management [~~Council on Sex Offender Treatment~~].

26 SECTION 2.003. Section 841.003(b), Health and Safety Code,
27 is amended to read as follows:

(b) A person is a repeat sexually violent offender for the purposes of this chapter:

(1) if the person:

(A) is convicted of more than one sexually violent offense and a sentence is imposed for at least one of the offenses;

(B) is adjudicated to have more than once engaged in delinquent conduct constituting any of the following sexually violent offenses, if the person is committed to the Texas Youth Commission for at least one instance of that conduct, or is adjudicated more than once to have engaged in delinquent conduct constituting any of the following sexually violent offenses, if based on the most recent adjudication the person is committed to the Texas Youth Commission:

(i) an offense under Section 22.011 or 22.021, Penal Code;

(ii) an offense under Section 20.04(a)(4), Penal Code, that is described by Section 841.002(8)(B);

(iii) an offense under Section 19.02 or 19.03, Penal Code, that is described by Section 841.002(8)(D);

(iv) an attempt, conspiracy, or solicitation, as defined by Chapter 15, Penal Code, to commit an offense listed in Subparagraph (i), (ii), or (iii);

(v) an offense under prior state law that contains elements substantially similar to the elements of an offense listed in Subparagraph (i), (ii), (iii), or (iv); or

(vi) 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 Subparagraph (i), (ii), (iii), or (iv); or

(C) for a person who is not otherwise described by Paragraph (B), is adjudicated to have three or more times engaged in delinquent conduct constituting any sexually violent offense, if the person is committed to the Texas Youth Commission for at least one instance of that conduct, or is adjudicated more than once to have engaged in delinquent conduct constituting any sexually violent offense if the conduct is composed of three or more instances of a sexually violent offense and if based on the most recent adjudication the person is committed to the Texas Youth Commission; or

(2) if:

(A) ~~[(1)]~~ the person:

(i) ~~[(A)]~~ is convicted of a sexually violent offense, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the person was subsequently discharged from community supervision;

(ii) ~~[(B)]~~ enters a plea of guilty or nolo contendere for a sexually violent offense in return for a grant of deferred adjudication;

(iii) ~~[(C)]~~ is adjudged not guilty by reason of insanity of a sexually violent offense; or

(iv) ~~[(D)]~~ is adjudicated by a juvenile court in this state, or by a juvenile court in another jurisdiction under a law described by Section 841.002(8)(G), as having engaged

1 in delinquent conduct constituting a sexually violent offense and
2 is committed, as applicable, to the Texas Youth Commission under
3 Section 54.04(d)(3) or (m), Family Code, or a functionally
4 equivalent secure juvenile correctional facility in another
5 jurisdiction in a manner that is functionally equivalent to a
6 commitment under Section 54.04(d)(3) or (m), Family Code; and

7 (B) ~~[(2)]~~ after the date on which under Paragraph
8 (A) ~~[Subdivision (1)]~~ the person is convicted, receives a grant of
9 deferred adjudication, is adjudged not guilty by reason of
10 insanity, or is adjudicated by a juvenile court as having engaged in
11 delinquent conduct, the person commits or engages in delinquent
12 conduct constituting a sexually violent offense for which the
13 person:

14 (i) ~~[(A)]~~ is convicted, but only if the
15 sentence for the offense is imposed;

16 (ii) receives a determinate sentence under
17 Section 54.04(d)(3) or (m), Family Code, and is transferred to the
18 Texas Department of Criminal Justice; or

19 (iii) ~~[(B)]~~ is adjudged not guilty by
20 reason of insanity.

21 SECTION 2.004. Section 841.007, Health and Safety Code, is
22 amended to read as follows:

23 Sec. 841.007. DUTIES OF OFFICE OF VIOLENT SEX OFFENDER
24 MANAGEMENT ~~[COUNCIL ON SEX OFFENDER TREATMENT]~~. The Office of
25 Violent Sex Offender Management ~~[Council on Sex Offender Treatment]~~
26 is responsible for providing appropriate and necessary treatment
27 and supervision through the case management system.

SECTION 2.005. Section 841.022(a), Health and Safety Code, is amended to read as follows:

(a) The executive director of the Texas Department of Criminal Justice and the commissioner of the ~~[Texas]~~ Department of State Health Services ~~[Mental Health and Mental Retardation]~~ jointly shall establish a multidisciplinary team to review available records of a person referred to the team under Section 841.021. The team must include:

(1) two persons from the ~~[Texas]~~ Department of State Health Services ~~[Mental Health and Mental Retardation]~~;

(2) two persons from the Texas Department of Criminal Justice, one of whom must be from the victim services office of that department;

(3) one person from the Texas Department of Public Safety; and

(4) two persons from the office ~~[council]~~ or office ~~[council]~~ personnel.

SECTION 2.006. Section 841.062, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) A determination that a person is a sexually violent predator must be supported by the testimony of two experts if the person is a repeat sexually violent offender described by Section 841.003(b)(1)(B) or (C).

SECTION 2.007. Sections 841.082(a) and (c), 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

1 requirements necessary to ensure the person's compliance with
2 treatment and supervision and to protect the community. The
3 requirements shall include:

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

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

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

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

13 (5) requiring the person to:

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

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

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

21 (7) if determined appropriate by the judge,
22 establishing a child safety zone in the same manner as a child
23 safety zone is established by a judge under Section 13B, Article
24 42.12, Code of Criminal Procedure, and requiring the person to
25 comply with requirements related to the safety zone;

26 (8) requiring the person to notify the case manager
27 immediately but in any event within 24 hours of any change in the

1 person's status that affects proper treatment and supervision,
2 including a change in the person's physical health or job status and
3 including any incarceration of the person; and

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

6 (c) The judge shall provide a copy of the requirements
7 imposed under Subsection (a) to the person and to the office
8 [~~council~~]. The office [~~council~~] shall provide a copy of those
9 requirements to the case manager and to the service providers.

10 SECTION 2.008. Section 841.083, Health and Safety Code, is
11 amended to read as follows:

12 Sec. 841.083. TREATMENT; SUPERVISION. (a) The office
13 [~~council~~] shall approve and contract for the provision of a
14 treatment plan for the committed person to be developed by the
15 treatment provider. A treatment plan may include the monitoring of
16 the person with a polygraph or plethysmograph. The treatment
17 provider may receive annual compensation in an amount not to exceed
18 \$6,000 for providing the required treatment.

19 (b) The case manager shall provide supervision to the
20 person. The provision of supervision shall include a tracking
21 service and, if required by court order, supervised housing.

22 (c) The office [~~council~~] shall enter into appropriate
23 memoranda of understanding with the Texas Department of Public
24 Safety for the provision of a tracking service and for assistance in
25 the preparation of criminal complaints, warrants, and related
26 documents and in the apprehension and arrest of a person.

27 (c-1) Notwithstanding Subsection (c) or any other provision

1 of this subchapter, the office [~~council~~] shall provide through the
2 case management system any supervision or tracking service required
3 under this chapter for persons residing in Dallas, Harris, or
4 Tarrant County. The office [~~council~~] shall provide the tracking
5 service under this subsection through two employees of the
6 Department of State Health Services. Any tracking personnel used
7 by the department for purposes of this chapter must be approved by
8 the office [~~council~~].

9 (c-2) If the equipment necessary to implement the tracking
10 service is available through a contract entered into by the
11 comptroller, the Department of Public Safety or the office
12 [~~council~~], as appropriate, shall acquire that equipment through
13 that contract.

14 (d) The office [~~council~~] shall enter into appropriate
15 memoranda of understanding for any necessary supervised housing.
16 The office [~~council~~] shall reimburse the applicable provider for
17 housing costs under this section. The committed person may not be
18 housed for any period [~~of time~~] in a mental health facility, state
19 school, or community center, unless the placement results from a
20 commitment of the person to that facility, school, or center by
21 governmental action. In this subsection:

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

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

26 (3) "State school" has the meaning assigned by Section
27 531.002.

(e) The case manager shall:

(1) coordinate the outpatient treatment and supervision required by this chapter, including performing a periodic assessment of the success of that treatment and supervision;

(2) make timely recommendations to the judge on whether to allow the committed person to change residence or to leave the state and on any other appropriate matters; and

(3) provide a report to the office [~~council~~], semiannually or more frequently as necessary, which must include:

(A) any known change in the person's status that affects proper treatment and supervision; and

(B) any recommendations made to the judge.

SECTION 2.009. Section 841.084, Health and Safety Code, is amended to read as follows:

Sec. 841.084. COST OF TRACKING SERVICE. Notwithstanding Section 841.146(c), a civilly committed person who is not indigent is responsible for the cost of the tracking service required by Section 841.082 and monthly shall pay to the office [~~council~~] the amount that the office [~~council~~] determines will be necessary to defray the cost of operating the service with respect to the person during the subsequent month. The office [~~council~~] immediately shall transfer the money to the appropriate service provider.

SECTION 2.010. Section 841.101, Health and Safety Code, is amended to read as follows:

Sec. 841.101. BIENNIAL EXAMINATION. (a) A person committed under Section 841.081 shall receive a biennial

1 examination. The office [~~council~~] shall contract for an expert to
2 perform the examination.

3 (b) In preparation for a judicial review conducted under
4 Section 841.102, the case manager shall provide a report of the
5 biennial examination to the judge. The report must include
6 consideration of whether to modify a requirement imposed on the
7 person under this chapter and whether to release the person from all
8 requirements imposed on the person under this chapter. The case
9 manager shall provide a copy of the report to the office [~~council~~].

10 SECTION 2.011. Section 841.141, Health and Safety Code, is
11 amended to read as follows:

12 Sec. 841.141. RULEMAKING AUTHORITY. (a) The office
13 [~~council~~] by rule shall administer this chapter. Rules adopted by
14 the office [~~council~~] under this section must be consistent with the
15 purposes of this chapter.

16 (b) The office [~~council~~] by rule shall develop standards of
17 care and case management for persons committed under this chapter.

18 SECTION 2.012. Sections 841.142(c) and (d), Health and
19 Safety Code, are amended to read as follows:

20 (c) On the written request of any attorney for another state
21 or for a political subdivision in another state, the Texas
22 Department of Criminal Justice, the office [~~council~~], a service
23 provider contracting with one of those agencies, the
24 multidisciplinary team, and the attorney representing the state
25 shall release to the attorney any available information relating to
26 a person that is sought in connection with an attempt to civilly
27 commit the person as a sexually violent predator in another state.

1 (d) To protect the public and to enable an assessment or
2 determination relating to whether a person is a sexually violent
3 predator or to enable the provision of supervision and treatment to
4 a person who is a sexually violent predator, the Texas Department of
5 Criminal Justice, the office [~~council~~], a service provider
6 contracting with one of those agencies, the multidisciplinary team,
7 and the attorney representing the state may exchange any available
8 information relating to the person.

9 SECTION 2.013. Section 841.147, Health and Safety Code, is
10 amended to read as follows:

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

13 (1) an employee or officer of the Texas Department of
14 Criminal Justice, the Department of State Health Services, the
15 Department of Aging and Disability Services, or the office
16 [~~council~~];

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

19 (3) an employee of the civil division of the special
20 prosecution unit charged with initiating and pursuing civil
21 commitment proceedings under this chapter; and

22 (4) a person providing, or contracting, appointed, or
23 volunteering to perform, a tracking service or another service
24 under this chapter.

25 SECTION 2.014. Subchapter H, Chapter 841, Health and Safety
26 Code, is amended by adding Section 841.151 to read as follows:

27 Sec. 841.151. NOTICE OF RELEASE OF SEXUALLY VIOLENT

1 PREDATOR. (a) In this section:

2 (1) "Correctional facility" has the meaning assigned
3 by Section 1.07, Penal Code.

4 (2) "Secure correctional facility" and "secure
5 detention facility" have the meanings assigned by Section 51.02,
6 Family Code.

7 (b) This section applies to a person who has been civilly
8 committed under this chapter and who is detained or confined in a
9 correctional facility, secure correctional facility, or secure
10 detention facility as a result of violating:

11 (1) a civil commitment requirement imposed under
12 Section 841.082; or

13 (2) a law of this state.

14 (c) Not later than the day preceding the date a correctional
15 facility, secure correctional facility, or secure detention
16 facility releases a person who, at the time of the person's
17 detention or confinement, was civilly committed under this chapter
18 as a sexually violent predator, the facility shall notify the
19 person's case manager in writing of the anticipated date and time of
20 the person's release.

21 (d) A case manager, on request, shall provide a correctional
22 facility, a secure correctional facility, or a secure detention
23 facility with the case manager's appropriate contact information
24 for notification under Subsection (c).

25 SECTION 2.015. The functions of the Council on Sex Offender
26 Treatment that relate to the sex offender civil commitment program
27 are transferred to the Office of Violent Sex Offender Management.

1 SECTION 2.016. As soon as possible after the effective date
2 of this Act, the governor shall appoint three members to the Office
3 of Violent Sex Offender Management.

4 SECTION 2.017. (a) The Office of Violent Sex Offender
5 Management and the Council on Sex Offender Treatment shall
6 coordinate the transfer of functions relating to the sex offender
7 civil commitment program as required by this Act.

8 (b) The transfer of all functions relating to the sex
9 offender civil commitment program to the Office of Violent Sex
10 Offender Management shall be accomplished as soon as possible but
11 not later than the 45th day after the date that the last member of
12 the Office of Violent Sex Offender Management qualifies for office.

13 (c) The transfer required by this Act includes the transfer
14 of all assets, duties, powers, obligations, and liabilities,
15 including contracts, leases, real or personal property, funds,
16 employees, furniture, computers and other equipment, and files and
17 related materials used by the Council on Sex Offender Treatment in
18 performing the functions relating to the sex offender civil
19 commitment program that are transferred by this Act.

20 (d) A form, rule, or procedure adopted by the Health and
21 Human Services Commission or the Department of State Health
22 Services in relation to the Council on Sex Offender Treatment that
23 is in effect on the effective date of this Act remains in effect on
24 and after that date as if adopted by the Office of Violent Sex
25 Offender Management until amended, repealed, withdrawn, or
26 otherwise superseded by that office.

27 (e) All unexpended appropriations for functions relating to

1 the sex offender civil commitment program that are made for use by
2 the Council on Sex Offender Treatment are transferred to the Office
3 of Violent Sex Offender Management.

4 (f) The Office of Violent Sex Offender Management shall
5 publish in the Texas Register the date on which the transfer of
6 functions under this Act is accomplished.

7 SECTION 2.018. After the effective date of this Act, the
8 Council on Sex Offender Treatment shall continue to perform
9 applicable functions until the transfer of functions required by
10 this Act is completed, and the laws providing for those functions
11 are continued in effect for that purpose.

12 ARTICLE 3. EFFECTIVE DATE

13 SECTION 3.001. This Act takes effect September 1, 2009.