S.B. No. 746 1-1 By: Whitmire (In the Senate - Filed February 24, 2015; March 2, 2015, read first time and referred to Committee on Criminal Justice; April 21, 2015, reported adversely, with favorable Committee 1-2 1-3 1-4 1-5 Substitute by the following vote: Yeas 6, Nays 0; April 21, 2015, 1-6 sent to printer.) COMMITTEE VOTE 1-7 1-8 Absent PNV Yea Nay 1-9 Whitmire Х 1-10 1-11 Х Huffman Х Burton 1-12 Х <u>Creighton</u> 1-13 Hinojosa Х Х 1-14 Menéndez 1-15 Perry 1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 746 By: Whitmire 1-17 A BILL TO BE ENTITLED 1-18 AN ACT 1-19 relating to the civil commitment of sexually violent predators; 1-20 amending provisions subject to criminal penalties. 1-21 1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS: SECTION 1. Sections 841.002(1), (3), and (4), Health and Safety Code, are amended to read as follows: 1-23 (1) "Attorney representing the state" means <u>a district</u> 1-24 attorney, criminal district attorney, or county attorney with felony criminal jurisdiction who represents the state in [an attorney employed by the civil division of the special prosecution unit to initiate and pursue] a civil commitment proceeding under 1-25 1-26 1-27 1-28 1-29 this chapter. (3) 1-30 "Case manager" means a person employed by or under contract with the office to perform duties related to the [outpatient] treatment and supervision of a person committed under 1-31 1**-**32 1-33 this chapter. (4) "Office" means the <u>Texas Civil Commitment</u> Office 1-34 1-35 [of Violent Sex Offender Management]. SECTION 2. Section 841.003(b), Health and Safety Code, is 1-36 1-37 amended to read as follows: 1-38 (b) A person is a repeat sexually violent offender for the purposes of this chapter if the person is convicted of more than one 1-39 1-40 sexually violent offense and a sentence is imposed for at least one 1-41 of the offenses or if: 1-42 (1)the person: 1-43 (A) is convicted of a sexually violent offense, 1-44 regardless of whether the sentence for the offense was ever imposed 1-45 or whether the sentence was probated and the person was subsequently discharged from community supervision; (B) enters a plea of guilty or nolo contendere 1-46 1 - 471-48 for a sexually violent offense in return for a grant of deferred adjudication; or 1-49 1-50 (C) [is adjudged not guilty by reason of insanity 1-51 of <del>a sexually</del> violent offense; or 1-52 [(D)] is adjudicated by a juvenile court as 1-53 having engaged in delinquent conduct constituting a sexually 1-54 violent offense and is committed to the Texas Juvenile Justice 1-55 Department under Section 54.04(d)(3) or (m), Family Code; and 1-56 (2) after the date on which under Subdivision (1) the 1-57 person is convicted, receives a grant of deferred adjudication, [is adjudged not guilty by reason of insanity,] or is adjudicated by a juvenile court as having engaged in delinquent conduct, the person 1-58 1-59 1-60 commits a sexually violent offense for which the person[+

C.S.S.B. No. 746 [(A)] is convicted, but only if the sentence for 2-1 2-2 the offense is imposed[; or 2-3 [<del>(B) is</del> adjudged not guilty by reason of 2-4 insanity]. 2**-**5 2**-**6 SECTION 3. Section 841.007, Health and Safety Code, is amended to read as follows: Sec. 841.007. DUTIES OF <u>TEXAS CIVIL COMMITMENT</u> OFFICE [OF <u>VIOLENT SEX OFFENDER MANAGEMENT</u>]. The <u>Texas Civil Commitment</u> Office [of Violent Sex Offender Management] is responsible for: 2-7 2-8 2-9 (1) providing appropriate and necessary treatment and supervision for committed persons through the case management 2**-**10 2**-**11 2-12 system; and (2) 2-13 developing and implementing sex offender а treatment program for persons committed under this chapter. SECTION 4. Section 841.021, Health and Safety Code, is amended by amending Subsections (a) and (c) and adding Subsections 2-14 2**-**15 2**-**16 2-17 (a-1) and (d) to read as follows: Subject to Subsection (a-1) and except as provided by 2-18 (a) <u>Subsection (d), before [Before]</u> the person's anticipated release date, the Texas Department of Criminal Justice shall give to the 2-19 2-20 2-21 multidisciplinary team established under Section 841.022 written notice of the anticipated release of a person who: 2-22 2-23 (1)is serving a sentence for: 2-24 (A) a sexually violent offense described by 2**-**25 2**-**26 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 2-27 sexually violent offense described by Section 841.002(8)(D); and 2-28 2-29 (2) may be a repeat sexually violent offender. (a-1) Regardless of whether any exigent circumstances are present, the Texas Department of Criminal Justice may give notice 2-30 2-31 2-32 under this section with respect to a person who is scheduled to be 2-33 released on parole or to mandatory supervision only if the person's anticipated release date is not later than 24 months after the date on which the notice will be given. The department may not give notice with respect to a person who is currently released on parole 2-34 2-35 2-36 2-37 or to mandatory supervision, but the multidisciplinary team may 2-38 perform the functions described by Section 841.022(c) within the 2-39 applicable period required by that subsection if the written notice required by this section was received by the team before the date of the person's release. 2-40 2-41 (c) The Texas Department of Criminal Justice 2-42 [<del>or</del> the Department of State Health Services, as appropriate,] shall give the notice described by Subsection (a) [or (b)] not later than the first day of the 24th [16th] month before the person's anticipated release [or discharge] date, but under exigent circumstances may 2-43 2-44 2-45 2-46 give the notice at any time before that [the anticipated release or discharge] date, except as provided by Subsection (a-1). The 2-47 2-48 The notice must contain the following information: 2-49 2-50 (1) the person's name, identifying factors, 2-51 discharge], and criminal anticipated residence after release [or 2-52 history; 2-53 (2) documentation of the person's institutional 2-54 adjustment and actual treatment; and 2-55 (3) an assessment of the likelihood that the person 2-56 commit a sexually violent offense after release [or will 2-57 discharge]. 2-58 The Texas Department of Criminal Justice may not provide (d) notice under Subsection (a) of the anticipated release of a person for whom the department has previously provided notice under this section and who has been previously recommended for an assessment 2-59 2-60 2-61 under Section 841.022 unless, after the recommendation for 2-62 2-63 assessment was made: (1)2-64 the person is convicted of a new sexually violent 2-65 offense; or 2-66 (2)the person's parole or mandatory supervision is 2-67 revoked based on: (A) the commission of a new sexually violent 2-68 2-69 offense;

<ul> <li>Department of Criminal Justice [or the Department of State Services, as appropriate]; and</li> <li>(3) recommend the assessment of the person behavioral abnormality, as appropriate.</li> <li>SECTION 6. Section 841.023, Health and Safety and amended to read as follows:</li> <li>Sec. 841.023. ASSESSMENT FOR BEHAVIORAL ABNO (a) Not later than the 60th day after the date of a recommunate section 841.022(c), the Texas Department of Criminal [or the Department of State Health Services, as appropriate assess whether the person suffers from a behavioral abromation of the assessment] shall use an expert to examine the person [That] department may contract for the expert services recommended this subsection. The expert shall make a clinical assessment.</li> <li>(b) If as a result of the assessment the Texas Department for the assessment.</li> <li>(b) If as a result of the assessment the Texas Department abromation and the person suffers from a behavioral abromation and the assessment the texas performance of the assessment and techniques to aid the department [see assessment] and the department of the assessment and techniques to aid the department assessment.</li> <li>(b) If as a result of the assessment the Texas Department of Criminal Justice [or the Department of State Health State Health State Health State Health State assessment.</li> <li>(c) (c) (c) (c) (c) (c) (c) (c) (c) (c)</li></ul>	B. No. 746
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<ul> <li>3-4 SECTION 5. Section 841.022, Health and Safety '.</li> <li>3-5 amended by S.B. No. 219, Acts of the 84th Legislature,</li> <li>3-6 amended by amending Subsections (a) and</li> <li>3-7 adding Subsection (a-1) to read as follows:</li> <li>3-8 (a) The executive director of the Texas Depart</li> <li>3-9 Criminal Justice [and the commissioner of state health.</li> <li>3-10 (1) a mental health professional [one person.]</li> <li>3-11 available records of a person referred to the team under</li> <li>3-12 (1) a mental health professional [one person.]</li> <li>3-14 Department of State Health Services;</li> <li>3-15 Department of State Health Services;</li> <li>3-16 Justice as follows:</li> <li>3-17 (2) two persons from the Texas Department of</li> <li>3-18 victim services division; and</li> <li>3-19 (B) one person [ef whom must be]</li> <li>3-10 (B) one person from the sex</li> <li>3-20 rehabilitation program in the rehabilitation programs division; and</li> <li>3-21 (a) a licensed peace officer who is employed</li> <li>3-22 perience working for that department or the officer's</li> <li>3-23 (a) a licensed sex offender treatment provide praining the civil comparison of the department of Public Safety and who has at least fiv</li> <li>3-24 (b) two persons from the office [or officer perison]</li> <li>3-25 (a) the process for evaluating perisons for cons</li> <li>3-26 (a) two persons for evaluating perisons for cons</li> <li>3-27 (a) (b) a licensed sex offender treatment provide</li> <li>3-3 (c) Not later than the 60th day after the consultation with the office, shall provide training regarding:</li> <li>3-4 (c) Not later than the 60th day after the constant of criminal Justice [or discontrol, sasessment of the person is a repeat</li> <li>3-4 (c) Not later than the form assessment of the person is a repeat</li> <li>3-4 (c) Not later than the 60th day after the constant of criminal Justice [or discon</li></ul>	۲.
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3-69 <u>Section 841.022(c)</u> the department [ <del>making the assessmen</del>	

of that assessment and provide corresponding 4-1 give notice 4-2 documentation to the attorney representing the state for the county in which the person was most recently convicted of a sexually violent offense [not later than the 60th day after the date of a recommendation under Section 841.022(c)]. 4-3 4 - 44**-**5 4**-**6

SECTION 7. Section 841.041(a), Health and Safety Code, is amended to read as follows: 4-7

(a) If a person is referred to the attorney representing the state under Section 841.023, the attorney may file, in the [a Montgomery County district] court of conviction for the person's most recent sexually violent offense [other than a family district court], a petition alleging that the person is a sexually violent predator and stating facts sufficient to support the allegation. 4-8 4-9 4-10 4-11 4-12 4-13

SECTION 8. Subchapter D, Chapter 841, Health and Safety Code, is amended by adding Section 841.065 to read as follows: 4-14 4**-**15 4**-**16

Sec. 841.065. AGREED ORDER. An agreed order of civil commitment must require the person to submit to the treatment and 4-17 supervision administered by the office. 4-18

SECTION 9. Section 841.081, Health and Safety Code, is 4-19 4-20 4-21 amended to read as follows:

Sec. 841.081. CIVIL COMMITMENT OF PREDATOR. (a) If at a trial conducted under Subchapter D the judge or jury determines that the person is a sexually violent predator, the judge shall 4-22 4-23 4-24 commit the person for [outpatient] treatment and supervision to be coordinated by the <u>office</u> [case manager]. The commitment order is effective immediately on entry of the order, except that the [<del>outpatient</del>] treatment and supervision begins on the person's 4**-**25 4**-**26 4-27 release from a secure correctional facility [or discharge from a state hospital] and continues until the person's behavioral 4-28 4-29 abnormality has changed to the extent that the person is no longer likely to engage in a predatory act of sexual violence. (b) At any time after entry of a commitment order under 4-30 4-31

4-32 Subsection (a), the <u>office</u> [case manager] may provide to the person instruction regarding the requirements associated with the order, 4-33 4-34 4-35 regardless of whether the person is incarcerated at the time of the 4-36 instruction.

4-37 SECTION 10. Sections 841.082(a) and (b), Health and Safety 4-38 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 4-39 4-40 4-41 4-42 4-43 requirements shall include:

4 - 44(1) requiring the person to reside where instructed [in a Texas residential facility under contract with the at another location or facility approved] by the office; 4-45 office or 4-46

4-47 (2) prohibiting the person's contact with a victim [or 4-48 potential victim] of the person;

(3) [prohibiting the person's possession or use of alcohol, inhalants, or a controlled substance; 4-49 4-50

4-51 [(4)] requiring the person's participation in and compliance with the sex offender treatment program [a specific 4-52 4-53 course of treatment] provided by the office and compliance with all written requirements imposed by the [case manager or otherwise by 4-54 4-55 the] office; 4-56

(4) [(5)] requiring the person to:

submit to tracking under a particular type of 4-57 (A) tracking service and to any other appropriate supervision; and 4-58

4-59 (B) refrain from tampering with, altering, 4-60 modifying, obstructing, or manipulating the tracking equipment; 4-61 and

4-62 (5) [(6)] prohibiting the person from [changing the 4-63 person's residence without prior authorization from the judge and from] leaving the state without [that] prior authorization from the 4-64 4-65 office[+

[(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 4-66 4-67 4-68 42.12, of Criminal Procedure, and requiring the person to 4-69 Code

comply with requirements related to the safety zone; 5-1 and [(8) any other requirements determined necessary by 5-2 judge]. 5-3 the 5-4 (b) A tracking service to which a person is required to submit under Subsection (a)(4) [(a)(5)] must: 5**-**5 5**-**6 (1)track the person's location in real time; (2) be able to provide a real-time report of the person's location to the office on [case manager at the case 5-7 5-8 5-9 manager's] request; and 5-10 (3) periodically provide a cumulative report of the 5**-**11 person's location to the <u>office</u> [<del>case manager</del>]. SECTION 11. Subchapter E, Chapter 841, Health and Safety 5-12 5-13 Code, is amended by adding Section 841.0821 to read as follows: Sec. 841.0821. SEX OFFENDER TREATMENT BEFORE RELEASE FROM SECURE CORRECTIONAL FACILITY. (a) The Texas Department of Criminal Justice shall prioritize enrolling in a sex offender treatment program established by the department any committed 5-14 5**-**15 5**-**16 5-17 5-18 person who has not yet been released by the department. 5-19 (b) The Texas Department of Criminal Justice and the office shall adopt a memorandum of understanding that establishes their respective responsibilities to institute a continuity of care for committed persons enrolled in a sex offender treatment program 5**-**20 5**-**21 5-22 5-23 established by the department. SECTION 12. Section 841.083, Health and Safety Code, is 5-24 5**-**25 5**-**26 amended to read as follows: Sec. 841.083. TREATMENT; SUPERVISION. (a) The office shall determine the conditions of supervision and treatment of a 5-27 committed person [approve and contract for the provision of a treatment plan for the committed person to be developed by the treatment provider. A treatment plan may include the monitoring of the person with a polygraph or plethysmograph. The treatment 5-28 5-29 5-30 5-31 provider may receive annual compensation in an amount not to exceed 5-32 \$10,000 for providing the required treatment]. 5-33 5-34 (b) The office [case manager] shall provide supervision to the person. The provision of supervision must include a tracking service and, if <u>determined necessary by the office</u> [required by court order], supervised housing. 5-35 5-36 5-37 5-38 (c) The office shall enter into appropriate memoranda of understanding with the <u>Texas Department of Criminal Justice</u> [Department of Public Safety] for the provision of a tracking service and with the Department of Public Safety and local law enforcement authorities for assistance in the preparation of 5-39 5-40 5-41 5-42 5-43 criminal complaints, warrants, and related documents and in the 5-44 apprehension and arrest of a person. (d) The office shall enter into appropriate <u>contracts</u> and of understanding] for <u>the provision of</u> any necessary 5-45 5-46 [memoranda supervised housing and other related services and may enter into 5-47 appropriate contracts for medical and mental health services and 5-48 sex offender treatment. [The office shall reimburse the applicable provider for housing costs under this section.] 5-49 5-50 5-51 The case manager shall: (e) [<del>outpatient</del>] treatment 5-52 (1) coordinate the and supervision required by this chapter, including performing a periodic assessment of the success of that treatment and 5-53 5-54 supervision; and (2) [make timely recommendations to the judge on 5-55 5-56 whether to allow the committed person to change residence 5-57 5**-**58 leave the state and on any other appropriate matters; and [(3)] provide a report to the office, semiannually or 5-59 more frequently as necessary, which must include[+
 [(A)] any known change in the person's status 5-60 5-61 that affects proper treatment and supervision[; and 5-62 5-63 [(B) any recommendations made to the judge]. SECTION 13. Subchapter E, Chapter 841, Health and Safety 5-64 Code, is amended by adding Sections 841.0831, 841.0832, 841.0833, 841.0834, 841.0835, and 841.0836 to read as follows: 5-65 5-66 Sec. 841.0831. TIERED PROGRAM. (a) The 5-67 office shall develop a tiered program for the supervision and treatment of a 5-68 committed person. 5-69

C.S.S.B. No. 746 (b) The tiered program must provide for the seamless transition of a committed person from a total confinement facility 6-1 6-2 6-3 to less restrictive housing and supervision and eventually to release from civil commitment, based on the person's behavior and 6-4 6**-**5 6**-**6 progress in treatment. Sec. 841.0832. HOUSING FACILITIES. (a) The office shall operate, or contract with a vendor to operate, one or more 6-7 facilities provided for the purpose of housing committed persons. 6-8 (b) The office shall designate a facility under Subsection 6-9 (a) to serve as an intake and orientation facility for committed persons on release from a secure correctional facility. 6**-**10 6**-**11 6-12 Sec. 841.0833. SECURITY AND MONITORING. The office shall develop procedures for the security and monitoring of committed 6-13 persons in each programming tier. 6-14 6**-**15 6**-**16 Sec. 841.0834. MOVEMENT BETWEEN PROGRAMMING The office shall transfer a committed person TIERS. to less (a) restrictive housing and supervision if the transfer is in the best 6-17 interests of the person and conditions can be imposed that 6-18 <u>adequately protect the community.</u> (b) Without the office's approval, a committed person may file a petition with the court for transfer to less restrictive 6-19 6-20 6-21

housing and supervision. The court shall grant the transfer if the 6-22 court determines that the transfer is in the best interests of the 6-23 person and conditions can be imposed that adequately protect the 6-24 6**-**25 6**-**26

<u>community.</u> (c) The office shall return a committed person who has been <u>(c) The office shall return a committed person who has been</u> transferred to less restrictive housing and supervision to a more 6-27 restrictive setting if the office considers the transfer necessary 6-28 to further treatment and to protect the community. The decision to transfer the person must be based on the person's behavior or progress in treatment. 6-29 6-30 6-31

(d) A committed person returned to a more restrictive 6-32 setting under Subsection (c) is entitled to file a petition with the 6-33 court seeking review of the office's determination. The court 6-34 shall order the office to transfer the person to less restrictive housing and supervision only if the court determines that the office's determination was not made in accordance with Subsection 6-35 6-36 6-37 6-38 (c).

<u>Sec. 841.0835.</u> COMMITTED PERSONS WITH SPECIAL NEEDS. The Health and Human Services Commission shall coordinate with the office to provide psychiatric services, disability services, and housing for a committed person with an intellectual or developmental disability, a mental illness, or a physical disability that prevents the person from effectively participating in the sex offender treatment program administered by the office 6-39 6-40 6-41 6-42 6-43 6-44 in the sex offender treatment program administered by the office. Sec. 841.0836. RELEASE FROM HOUSING. A committed person 6-45

6-46 released from housing operated by or under contract with the office 6-47 6-48 shall be released to the county in which the person was most 6-49

recently convicted of a sexually violent offense. SECTION 14. Section 841.084, Health and amended to read as follows: and Safety Code, 6-50 is 6-51 6-52 Sec. 841.084. PAYMENT OF COSTS BY COMMITTED PERSON [COST OF

6-53 TRACKING SERVICE]. (a) Notwithstanding Section 841.146(c), a civilly committed person who is not indigent: 6-54 6-55

(1)

6-57 chapter; and

6-56

6-58

6-59

is responsible for the cost of: (A) housing and treatment provided under this

(B) the tracking service required by Section 841.082; and

(2) 6-60 monthly shall pay to the office the amount that the office determines will be necessary to defray the cost of providing 6-61 6-62 the housing, treatment, and [operating the] service with respect to the person [during the subsequent month. The office immediately shall transfer the money to the appropriate service provider]. 6-63 6-64

(b) Money collected under this section shall be deposited to the credit of the account from which the costs were originally paid. 6-65 6-66 6-67 SECTION 15. Section 841.085(a), Health and Safety Code, is 6-68 amended to read as follows: 6-69

(a) A person commits an offense if, after having been

C.S.S.B. No. 746 7-1 adjudicated and civilly committed as a sexually violent predator 7-2 under this chapter, the person violates a civil commitment 7-3 requirement imposed under Section 841.082(a)(1), (2), (4), or (5) 7-4 [841.082]. 7-5 SECTION 16. Section 841.101(b), Health and Safety Code, is 7-6 amended to read as follows: 7-7 (b) In preparation for a judicial review conducted under Section 841.102, the office [case manager] shall provide a report of the biennial examination to the judge and to the person. The report must include consideration of whether to modify a 7-8 7-9 7-10 whether to modify a 7-11 requirement imposed on the person under this chapter and whether to 7-12 release the person from all requirements imposed on the person under this chapter. [The case manager shall provide a copy of the 7-13 7-14 report to the office.] 7**-**15 7**-**16 SECTION 17. Section 841.102(a), Health and Safety Code, is amended to read as follows: 7-17 (a) Not later than the 60th day after the date of receipt of the report submitted under Section 841.101, the [The] judge shall 7-18 conduct a biennial review of the status of the committed person and 7-19 7**-**20 7**-**21 issue an order concluding the review or setting a hearing under Subsection (c). 7-22 SECTION 18. Section 841.121(a), Health and Safety Code, is 7-23 amended to read as follows: 7-24 (a) If the office [case manager] determines that the 7-25 committed person's behavioral abnormality has changed to the extent , 7**-**26 that the person is no longer likely to engage in a predatory act of 7-27 sexual violence, the office [case manager] shall authorize the 7-28 person to petition the court for release. SECTION 19. 7-29 Section 841.122, Health and Safety Code, is 7-30 amended to read as follows: 7**-**31 Sec. 841.122. RIGHT TO FILE UNAUTHORIZED PETITION FOR 7-32 On a person's commitment and annually after that RELEASE. commitment, the office [case manager] shall provide the person with 7-33 7-34 written notice of the person's right to file with the court and 7-35 without the office's [case manager's] authorization a petition for 7-36 release. 7-37 SECTION 20. Sections 841.123(a), (b), and (c), Health and 7-38 Safety Code, are amended to read as follows: 7-39 (a) If the committed person files a petition for release without the <u>office's</u> [case manager's] authorization, the person shall serve the petition on the court and the attorney representing 7-40 7-41 7-42 the state. 7-43 (b) The judge shall review and issue a ruling on [On receipt 7-44 of] a petition for release filed by the committed person without the 7-45 office's [case manager's] authorization not later than the 60th day after the date of filing of the petition [, the judge shall attempt 7-46 soon as practicable to review the petition]. 7-47 as (c) Except as provided by Subsection (d), the judge shall deny without a hearing a petition for release filed without the <u>office's</u> [case manager's] authorization if the petition is 7-48 7-49 7-50 7-51 frivolous or if: 7-52 (1)the petitioner previously filed without the 7-53 office's petition for [case manager's] authorization another release; and 7-54 7-55 (2) the judge determined on review of the previous 7-56 petition or following a hearing that: 7-57 the petition was frivolous; or (A) (B) the petitioner's behavioral abnormality had not changed to the extent that the petitioner was no longer likely 7-58 7-59 to engage in a predatory act of sexual violence. SECTION 21. Section 841.124(a), Health and Safety Code, is 7-60 7-61 7-62 amended to read as follows: 7-63 If as authorized by Section 841.123 the judge does not (a) 7-64 deny a petition for release filed by the committed person without the <u>office's</u> [case manager's] authorization, the judge shall conduct [as soon as practicable] a hearing on the petition <u>not later</u> 7-65 7-66 7-67 than the 60th day after the date of filing of the petition. SECTION 22. Section 841.141(b), Health and Safety Code, is 7-68 7-69 amended to read as follows:

The office [by rule] shall adopt rules to: 8-1 (b) (1) develop standards of care and case management for 8-2 persons committed under this chapter; 8-3

(2) determine the conditions of supervision treatment of a committed person; and 8-4 and 8-5

(3) develop and implement the tiered program described by Section 841.0831, including rules regarding a committed person's 8-6 8-7 8-8 transition between programming tiers

8-9

SECTION 23. Sections 841.142(b), (c), and (d), Health and Safety Code, are amended to read as follows:

8-10 8-11 (b) To protect the public and to enable the provision of supervision and treatment to a person who is a sexually violent 8-12 8-13 predator, any entity that possesses relevant information relating to the person shall release the information to the office [case 8-14 manager].

8**-**15 8**-**16 On the written request of any attorney for another state (c) 8-17 for a political subdivision in another state, the Texas or Department of Criminal Justice, the office, a service provider 8-18 contracting with one of those agencies, the multidisciplinary team, 8-19 8-20 8-21 and the <u>applicable</u> attorney representing the state shall release to the attorney any available information relating to a person that is 8-22 sought in connection with an attempt to civilly commit the person as 8-23 a sexually violent predator in another state.

(d) To protect the public and to enable an assessment or determination relating to whether a person is a sexually violent predator or to enable the provision of supervision and treatment to a person who is a sexually violent predator, the Texas Department of 8-24 8**-**25 8**-**26 8-27 Criminal Justice, the office, a service provider contracting with one of those agencies, the multidisciplinary team, and the 8-28 8-29 <u>applicable</u> attorney representing the state may exchange any available information relating to the person. 8-30 8-31

SECTION 24. Section 841.144(b), Health and Safety Code, is 8-32 8-33 amended to read as follows:

8-34 (b) If the person is indigent, the court shall appoint counsel [as appropriate under Section 841.005] 8-35 to <u>represent</u> 8-36 [assist] the person.

8-37 SECTION 25. Section 841.146(c), Health and Safety Code, is 8-38 amended to read as follows:

(c) In an amount not to exceed \$2,500, the State of Texas 8-39 shall pay all costs associated with a civil commitment proceeding 8-40 8-41 conducted under Subchapter D. The State of Texas shall pay the 8-42 reasonable costs of state or appointed counsel or experts for any 8-43 other civil commitment proceeding conducted under this chapter and 8-44 shall pay the reasonable costs of the person's [outpatient] 8-45 treatment and supervision.

8-46 SECTION 26. Section 841.147, Health and Safety Code, is 8-47 amended to read as follows:

8-48 Sec. 841.147. IMMUNITY. The following persons are immune from liability for good faith conduct under this chapter: 8-49

8-50 (1) an employee or officer of the Texas Department of 8-51 Criminal Justice[, the Department of State Health Services, the Department of Aging and Disability Services,] or the office; 8-52

8-53 (2) a member of the multidisciplinary team established 8-54 under Section 841.022;

(3) the applicable attorney representing the state and an employee of the attorney [an employee of the civil division of 8-55 8-56 the special prosecution unit charged with initiating and pursuing 8-57 commitment proceedings under this chapter]; and 8-58

8-59 (4) a person providing, or contracting, appointed, or 8-60 volunteering to perform, a tracking service or another service 8-61 under this chapter.

8-62 SECTION 27. Section 841.150, Health and Safety Code, as 8-63 amended by S.B. No. 219, Acts of the 84th Legislature, Regular 8-64

Session, 2015, is amended to read as follows: Sec. 841.150. EFFECT OF SUBSEQUENT DETENTION, CONFINEMENT, OR COMMITMENT [OR CONFINEMENT] ON ORDER OF CIVIL COMMITMENT. (a) The duties imposed on the office and the judge by this chapter 8-65 8-66 8-67 are suspended for the duration of <u>a detention or [any</u>] confinement of a <u>committed</u> person <u>in a correctional facility</u>, secure 8-68 8-69

correctional facility, or secure detention facility, or if applicable any other commitment of the  $[\frac{1}{4}]$  person to a community center, mental health facility, or state supported living center, 9-1 9-2 9-3 9-4 by governmental action. (b)

9-5 9-6

In this section: (b) In this section. (1) "Community center" means a center established under Subchapter A, Chapter 534. (2) "Correctional facility" has the meaning assigned 9-7

9-8 by Section 1.07, Penal Code. 9-9

"Mental health facility" has the meaning assigned 9-10 (3) 9**-**11 by Section  $5\overline{71.003}$ .

"Secure 9-12 (4) correctional facility" "secure and facility" have the meanings assigned by Section 51.02, 9-13 detention 9-14 Family Code.

9-15 (5)[<del>(3)</del>] "State supported living center" has the 9**-**16 meaning assigned by Section 531.002. SECTION 28. Sections 841.151(b) and (c), Health and Safety

9-17 Code, are amended to read as follows: 9-18

9-19 (b) This section applies to a person who has been civilly 9-20 committed under this chapter and who is detained or confined in a 9**-**21 correctional facility, secure correctional facility, or secure detention facility as a result of violating: 9-22

9-23 (1) a civil commitment requirement imposed under 9-24 Section 841.082(a)(1), (2), (4), or (5) [841.082]; or 9-25

(2) a law of this state. (c) Not later than the day preceding the date a correctional facility, secure correctional facility, or secure detention facility releases a person who, at the time of the person's detention or confinement, was civilly committed under this chapter 9**-**26 9-27 9-28 9-29 as a sexually violent predator, the facility shall notify the office and the person's case manager in writing of the anticipated 9-30 9**-**31 date and time of the person's release. 9-32

SECTION 29. Article 13.315, Code of Criminal Procedure, is 9-33 9-34 amended to read as follows:

Art. 13.315. FAILURE TO COMPLY WITH SEXUALLY VIOLENT PREDATOR CIVIL COMMITMENT REQUIREMENT. An offense under Section 9-35 9-36 841.085, Health and Safety Code, may be prosecuted in the county in 9-37 which any element of the offense occurs or in the court that retains 9-38 jurisdiction over the civil commitment proceeding under Section 841.082, Health and Safety Code [Montgomery County]. SECTION 30. Section 24.579(c), Government Code, is amended 9-39 9-40

9-41 9-42 to read as follows:

9-43 (c) Notwithstanding any other law and only to the extent that the duties of those individuals relate to civil commitment proceedings under Chapter 841, Health and Safety Code, or to criminal cases involving offenses under Section 841.085, Health and 9-44 9-45 9-46 9-47 Safety Code, and Article 62.203, Code of Criminal Procedure, the 9-48 state shall pay the salaries of and other expenses related to the 9-49 court reporter appointed for the 435th District Court under Section 52.041 and the court coordinator appointed for the court under Section 74.101. The salaries of the court reporter and court 9-50 9-51 9-52 coordinator shall be set in amounts commensurate with the salaries 9-53 paid by other district courts for those positions.

9-54 SECTION 31. Section 411.1389, Government Code, is amended 9-55 to read as follows:

9-56 Sec. 411.1389. ACCESS ТΟ CRIMINAL HISTORY RECORD 9-57 INFORMATION: TEXAS CIVIL COMMITMENT OFFICE [OF VIOLENT SEX OFFENDER MANAGEMENT]. (a) The <u>Texas Civil Commitment</u> Office [of 9-58 9-59 Violent Sex Offender Management] is entitled to obtain from the 9-60 department criminal history record information that is maintained 9-61 by the department and that relates to a person who has applied with 9-62 the office to be:

9-63 9-64

(1)an employee of the office; or

a contracted service provider with the office. (2)

(b) Criminal history record information obtained by the <u>Texas Civil Commitment</u> Office [of Violent Sex Offender Management] 9-65 9-66 9-67 under Subsection (a) may not be released or disclosed to any person or agency except on court order or with the consent of the person 9-68 9-69 who is the subject of the information.

C.S.S.B. No. 746 The <u>Texas Civil Commitment</u> Office <u>Management</u>] shall destroy criminal [<del>of Violent</del> 10-1 (c) Sex 10-2 Offender history record information obtained under Subsection (a) as soon as practicable 10-3 10-4 after the date on which, as applicable: 10-5 (1) the person's employment or contract with the 10-6 office terminates; or 10-7 (2) the office decides not to employ or contract with 10-8 the person. 10-9 The heading to Chapter 420A, Government Code, SECTION 32. 10-10 10-11 is amended to read as follows: TEXAS CIVIL COMMITMENT OFFICE [OF VIOLENT SEX CHAPTER 420A. 10-12 OFFENDER MANAGEMENT] 10-13 SECTION 33. Section 420A.001, Government Code, is amended 10-14 to read as follows: 10-15 10-16 .001. DEFINITIONS. In this chapter: "Board" means the governing board of the <u>Texas</u> Sec. 420A.001. (1)<u>Civil Commitment</u> Office [<del>of Violent Sex Offender Management</del>]. (2) "Office" means the <u>Texas Civil Commitment</u> Office 10-17 10-18 10-19 [of Violent Sex Offender Management]. 10-20 10-21 SECTION 34. Sections 420A.002(a), (b), and (c), Government Code, are amended to read as follows: 10-22 (a) The Texas Civil <u>Commitment</u> Office [of Violent Sex 10-23 Offender Management] is a state agency. 10-24 (b) The office is governed by a board composed of five [the following three] members appointed by the governor, including: (1) one member experienced in the management of sex 10-25 10-26 10-27 offenders; 10-28 (2) one member experienced in the investigation or 10-29 prosecution of sex offenses; and 10-30 one member experienced in counseling or advocating (3) 10-31 on behalf of victims of sexual assault. 10-32 (c) Members of the board serve staggered two-year terms. Three [Two] members' terms expire February 1 of each even-numbered 10-33 year and two members' terms expire [one member's term expires] 10-34 10-35 February 1 of each odd-numbered year. 10-36 SECTION 35. Section 420A.004, Government Code, is amended 10-37 to read as follows: 10-38 Sec. 420A.004. SUNSET PROVISION. The Texas Civil <u>Commitment</u> Office [of Violent Sex Offender Management] is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as 10-39 10-40 provided by that chapter, the office is abolished and this chapter 10-41 expires September 1, 2023. SECTION 36. The following laws are repealed: 10-42 10-43 10-44 (1)Section 24.579(b), Government Code; and Sections 841.004, 10-45 (2)841.005, 841.021(b), and 841.085(c), Health and Safety Code. SECTION 37. (a) The changes in law made by this Act to 10-46 10-47 Chapter 841, Health and Safety Code, apply to a civil commitment proceeding under that chapter that is initiated on or after the 10-48 10 - 49effective date of this Act, regardless of when the applicable petition for civil commitment was filed. 10-50 10-51 If a civil commitment requirement imposed under Chapter 10-52 (b) 10-53 841, Health and Safety Code, before the effective date of this Act differs from any of the civil commitment requirements listed in 10-54 Section 841.082, Health and Safety Code, as amended by this Act, the applicable court with jurisdiction over the committed person shall, 10-55 10-56 10-57 after notice and hearing, modify the requirement imposed as applicable to conform to that section. 10-58 10-59 SECTION 38. The change in law made by this Act in amending Section 841.085, Health and Safety Code, applies to an offense committed before, on, or after the effective date of this Act, 10-60 10-61 except that a final conviction for an offense under that section 10-62 that exists on the effective date of this Act remains unaffected by 10-63 10-64 this Act. 10-65 SECTION 39. As soon as practicable after the effective date 10-66 of this Act, the governor shall appoint the additional members to 10-67 the governing board of the Texas Civil Commitment Office, as required by Section 420A.002, Government Code, as amended by this 10-68 10-69 Act. In making those appointments, the governor shall appoint one

C.S.S.B. No. 746 11-1 member to a term expiring February 1, 2016, and one member to a term 11-2 expiring February 1, 2017.

11-2 expiring February 1, 2017. 11-3 SECTION 40. To the extent of any conflict, this Act prevails 11-4 over another Act of the 84th Legislature, Regular Session, 2015, 11-5 relating to nonsubstantive additions to and corrections in enacted 11-6 codes.

11-7 SECTION 41. This Act takes effect September 1, 2015.

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