

## **BILL ANALYSIS**

Senate Research Center

S.B. 906  
By: Perry  
Criminal Justice  
5/31/2021  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, sex offenders who are released from the Texas Department of Criminal Justice (TDCJ) and have been civilly committed are still required to appear in person to register as sex offenders with the local primary registration authority. This bill would amend current law and require the Texas Civil Commitment Office (TCCO) to report changes of the location of sex offenders to the local primary registration authority on behalf of TCCO clients. This would help ensure that there is an uninterrupted transfer of custody from TDCJ to TCCO.

If a TCCO client files a petition with the court to be transferred to less restrictive housing, this bill would require the client to serve TCCO with a copy of the petition. Furthermore, the court will hold these types of hearings via video conference.

Currently, TCCO may issue an emergency detention order in the event that a civilly committed client is returned to a TCCO facility from a less restrictive housing setting. However, an unintended loophole exists because TCCO is not permitted to issue an emergency detention order for a person who is newly committed and is not in prison, but rather has been released on parole or mandatory supervision. This bill would close that loophole.

TCCO clients are required to reimburse the state for the cost of their housing, treatment, and GPS tracking. However, the current statute does not require clients to provide their financial information to TCCO. This bill would require TCCO clients to provide information related to their income, assets, and expenses so that the state can accurately assess how much the clients are required to reimburse the state.

(Original Author's/Sponsor's Statement of Intent)

S.B. 906 amends current law relating to the civil commitment of sexually violent predators.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Article 62.055, Code of Criminal Procedure, by amending Subsection (a) and adding Subsection (j), as follows:

(a) Creates exceptions under Subsection (j) to certain requirements for persons required to register under Chapter 62 (Sex Offender Registration Program).

(j) Requires the Texas Civil Commitment Office (TCCO) to report a change in address to each local law enforcement authority serving as the current or proposed primary registration authority for a person required to register under this chapter who is:

(1) civilly committed as a sexually violent predator under Chapter 841 (Civil Commitment of Sexually Violent Predators), Health and Safety Code; and

(2) required to reside in a location other than a civil commitment center by a court under Chapter 574 (Court-Ordered Mental Health Services), Health and Safety Code, or by TCCO.

SECTION 2. Amends Section 841.041, Health and Safety Code, as follows:

Sec. 841.041. PETITION ALLEGING PREDATOR STATUS. (a) Authorizes an attorney representing the state, if a person is referred to the attorney under Section 841.023 (Assessment for Behavioral Abnormality), to file a petition alleging that the person is a sexually violent predator and stating facts sufficient to support the allegation.

(b) Requires that a petition described by Subsection (a) be:

(1) filed in a district court in the county of the person's most recent conviction for a sexually violent offense;

(2) and (3) creates these subdivisions from existing text and makes a nonsubstantive change.

(c) Requires the attorney representing the state to give preference to filing the petition in the applicable court of conviction, to the extent feasible, in filing the petition in a district court described by Subsection (b)(1).

SECTION 3. Amends Section 841.061, Health and Safety Code, by amending Subsections (a), (c), (d), and (f) and adding Subsection (h), as follows:

(a) Requires the judge to commence, rather than conduct, a trial to determine whether the person is a sexually violent predator:

(1) except as provided by Section 841.063 (Continuance), not later than the 270th day after the date a petition is served on the person under Section 841.041 (Petition Alleging Predator Status); and

(2) not later than the person's sentence discharge date unless the judge determines that a delay is necessary in the due administration of justice.

(c) Provides that the person and the state are each entitled to an immediate clinical interview, rather than examination, of the person by an expert. Makes a conforming change.

(d) Provides that additional rights of the person at the trial include the following:

(1) makes no changes to this subdivision;

(2) the right to waive the right to appear at the trial and appear through the person's attorney;

(3) - (5) makes nonsubstantive changes to these subdivisions.

(f) Makes conforming changes to this subsection.

(h) Authorizes the person, notwithstanding any other provision in Subchapter D (Trial), to appear at the trial through the use of remote technology, including teleconference and videoconference technology.

SECTION 4. Amends Section 841.062, Health and Safety Code, as follows:

Sec. 841.062. DETERMINATION OF PREDATOR STATUS. (a) Provides that either the state or the person determined to be a sexually violent predator is entitled to appeal the determination and to a retrial if an appellate court remands the case to the trial court for a new trial.

(b) Requires that a jury determination in a civil commitment proceeding, rather than a jury determination that the person is a sexually violent predator, be by unanimous verdict. Provides that if one or two of the 12 jurors have been discharged and there are no alternate jurors to be seated, the remaining jurors are

authorized to render a verdict. Provides that if fewer than 12 jurors render a verdict, the verdict is required to be signed by each juror rendering the verdict.

SECTION 5. Amends Section 841.063(b), Health and Safety Code, as follows:

(b) Prohibits the judge from continuing a trial conducted under Chapter 841 to a date occurring later than the person's sentence discharge date unless the judge determines that a continuance is necessary in the due administration of justice.

SECTION 6. Amends Section 841.064, Health and Safety Code, as follows:

Sec. 841.064. New heading: RETRIAL. (a) Creates this subsection from existing text and makes conforming changes.

(b) Requires the judge, if an appellate court remands the case to the trial court for a new trial, to commence the retrial not later than the 90th day after the date the appellate court remanded the case. Authorizes the retrial to be continued as provided by Section 841.063.

SECTION 7. Amends Sections 841.0834(b) and (d), Health and Safety Code, as follows:

(b) Requires a committed person who files a petition for transfer to a less restrictive setting to serve a copy of the petition on TCCO.

(d) Requires the committing court, not later than the 90th day after the date the committed person is returned to a more restrictive setting under Subsection (c) (relating to moving a committed person from less restrictive to more restrictive housing and supervision), to hold a hearing via videoconference to review TCCO's determination. Requires the court to order TCCO to transfer the person to less restrictive housing and supervision only if the court determines by clear and convincing evidence, rather than only if the court determines, that TCCO's determination was not made in accordance with Subsection (c). Authorizes the committed person to waive the right to a hearing under this subsection. Deletes existing text authorizing the committed person to file a petition with the court seeking review of TCCO's determination. Makes a nonsubstantive change.

SECTION 8. Amends Section 841.0837, Health and Safety Code, as follows:

Sec. 841.0837. EMERGENCY DETENTION ORDER. Authorizes TCCO to issue an emergency detention order for a committed person's immediate apprehension and transportation to a TCCO-designated location for certain purposes, including for a recently committed person who is not in the custody of the Texas Department of Criminal Justice at the time the commitment order is entered, bringing the person under the supervision of TCCO.

Deletes existing text defining "peace officer" for this section.

SECTION 9. Amends Section 841.084, Health and Safety Code, by adding Subsection (c), to require a committed person, on request, to provide to TCCO any financial records or other information regarding the person's income, assets, and expenses to assist TCCO in determining whether the person is indigent for purposes of Section 841.084 (Payment of Costs by Committed Person).

SECTION 10. Amends Section 841.146(a), Health and Safety Code, as follows:

(a) Requires the jury for a civil commitment proceeding under this chapter to consist of 12 qualified jurors. Authorizes the judge to direct that not more than four jurors in addition to the regular jury be called and impaneled to sit as alternate jurors. Entitles each party to 10 peremptory challenges to the 12 qualified jurors and one peremptory challenge to the qualified alternate jurors. Deletes existing text providing that the number and selection of jurors are governed by Chapter 33 (The Mode of Trial), Code of Criminal Procedure.

SECTION 11. Amends Section 841.151, Health and Safety Code, by amending Subsection (c) and adding Subsection (c-1), as follows:

(c) Creates an exception under Subsection (c-1) to the requirement that certain correctional facilities notify TCCO and the person's case manager of the anticipated date and time of a release of a person civilly committed as a sexually violent predator from the facility.

(c-1) Provides that Subsection (c) does not apply with respect to a person whom a court orders to be immediately released from a correctional facility, secure correctional facility, or secure detention facility.

SECTION 12. Repealer: Section 841.0834(e) (relating to requiring a committed person who files a petition for transfer to less restrictive housing and supervision to serve a copy of the petition to TCCO), Health and Safety Code.

SECTION 13. (a) Makes application of the changes in law made by this Act to Chapter 841, Health and Safety Code, except as otherwise provided by this section, prospective.

(b) Provides that Section 841.0834 (Notice of Release of Sexually Violent Predator), Health and Safety Code, as amended by this Act, applies only to a petition for transfer that is filed or to a return to a more restrictive setting that occurs on or after the effective date of this Act. Provides that a petition filed or a return that occurs before the effective date of this Act is governed by the law in effect on the date the petition was filed or the return occurred, and the former law is continued in effect for that purpose.

(c) Provides that Section 841.151 (Notice of Release of Sexually Violent Predator), Health and Safety Code, as amended by this Act, applies only to the release of a committed person that occurs on or after the effective date of this Act. Provides that the release of a committed person that occurs before the effective date of this Act is governed by the law in effect on the date the person was released, and the former law is continued in effect for that purpose.

SECTION 14. Effective date: September 1, 2021.