

By: Murr

H.B. No. 3432

Substitute the following for H.B. No. 3432:

By: Rodriguez

C.S.H.B. No. 3432

A BILL TO BE ENTITLED

AN ACT

relating to the civil commitment of sexually violent predators.

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

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

(a) If a person, other than a person described by Subsection (j), required to register under this chapter intends to change address, regardless of whether the person intends to move to another state, the person shall, not later than the seventh day before the intended change, report in person to the local law enforcement authority designated as the person's primary registration authority by the department and to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person and provide the authority and the officer with the person's anticipated move date and new address. If a person, other than a person described by Subsection (j), required to register changes address, the person shall, not later than the later of the seventh day after changing the address or the first date the applicable local law enforcement authority by policy allows the person to report, report in person to the local law enforcement authority in the municipality or county in which the person's new residence is located and provide the authority with proof of identity and proof

1 of residence.

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

6 (1) civilly committed as a sexually violent predator  
7 under Chapter 841, Health and Safety Code; and

8 (2) required to reside in a location other than a civil  
9 commitment center by:

10 (A) a court under Chapter 574, Health and Safety  
11 Code; or

12 (B) the Texas Civil Commitment Office.

13 SECTION 2. Section 841.041, Health and Safety Code, is  
14 amended to read as follows:

15 Sec. 841.041. PETITION ALLEGING PREDATOR STATUS. (a) If a  
16 person is referred to the attorney representing the state under  
17 Section 841.023, the attorney may file [~~, in the court of conviction~~  
18 ~~for the person's most recent sexually violent offense,~~] a petition  
19 alleging that the person is a sexually violent predator and stating  
20 facts sufficient to support the allegation.

21 (b) A petition described by Subsection (a) must be:

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

24 (2) filed not later than the 90th day after the date  
25 the person is referred to the attorney representing the state; and

26 (3) [~~(2)~~] served on the person as soon as practicable  
27 after the date the petition is filed.

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

5        SECTION 3. Section 841.061, Health and Safety Code, is  
6 amended by amending Subsections (a), (c), (d), and (f) and adding  
7 Subsection (h) to read as follows:

8        (a) The judge shall commence [~~conduct~~] a trial to determine  
9 whether the person is a sexually violent predator:

10            (1) except as provided by Section 841.063, not later  
11 than the 270th day after the date a petition is served on the person  
12 under Section 841.041; and

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

16        (c) The person and the state are each entitled to an  
17 immediate clinical interview [~~examination~~] of the person by an  
18 expert. All components of the clinical interview [~~examination~~] must  
19 be completed not later than the 90th day before the date the trial  
20 begins.

21        (d) Additional rights of the person at the trial include the  
22 following:

23            (1) the right to appear at the trial;

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

26            (3) except as provided by Subsection (f), the right to  
27 present evidence on the person's behalf;

1           (4) [~~(3)~~] the right to cross-examine a witness who  
2 testifies against the person; and

3           (5) [~~(4)~~] the right to view and copy all petitions and  
4 reports in the court file.

5           (f) A person who is on trial to determine the person's  
6 status as a sexually violent predator is required to submit to all  
7 expert clinical interviews [~~examinations~~] that are required or  
8 permitted of the state to prepare for the person's trial. A person  
9 who fails to submit to a clinical interview [~~expert examination~~] on  
10 the state's behalf as required by this subsection is subject to the  
11 following consequences:

12           (1) the person's failure to participate may be used as  
13 evidence against the person at trial;

14           (2) the person may be prohibited from offering into  
15 evidence the results of a clinical interview [~~an expert~~  
16 ~~examination~~] performed on the person's behalf; and

17           (3) the person may be subject to contempt proceedings  
18 if the person violates a court order by failing to submit to a  
19 clinical interview [~~an expert examination~~] on the state's behalf.

20           (h) Notwithstanding any other provision in this subchapter,  
21 the person may appear at the trial through the use of remote  
22 technology, including teleconference and videoconference  
23 technology.

24           SECTION 4. Section [841.062](#), Health and Safety Code, is  
25 amended to read as follows:

26           Sec. 841.062. DETERMINATION OF PREDATOR STATUS. (a) The  
27 judge or jury shall determine whether, beyond a reasonable doubt,

1 the person is a sexually violent predator. Either the state or the  
2 person is entitled to appeal the determination and to a retrial if  
3 an appellate court remands the case to the trial court for a new  
4 trial.

5 (b) A jury determination in a civil commitment proceeding  
6 [that the person is a sexually violent predator] must be by  
7 unanimous verdict. If one or two of the 12 jurors have been  
8 discharged and there are no alternate jurors to be seated, the  
9 remaining jurors may render a verdict. If fewer than 12 jurors  
10 render a verdict, the verdict must be signed by each juror rendering  
11 the verdict.

12 SECTION 5. Section 841.063(b), Health and Safety Code, is  
13 amended to read as follows:

14 (b) The judge may not continue a trial conducted under this  
15 chapter to a date occurring later than the person's sentence  
16 discharge date unless the judge determines that a continuance is  
17 necessary in the due administration of justice.

18 SECTION 6. Section 841.064, Health and Safety Code, is  
19 amended to read as follows:

20 Sec. 841.064. RETRIAL [~~MISTRIAL~~]. (a) A trial following a  
21 mistrial must commence [~~begin~~] not later than the 90th day after the  
22 date a mistrial was declared in the previous trial, unless the later  
23 trial is continued as provided by Section 841.063.

24 (b) If an appellate court remands the case to the trial  
25 court for a new trial, the judge shall commence the retrial not  
26 later than the 90th day after the date the appellate court remanded  
27 the case. The retrial may be continued as provided by Section

1 [841.063](#).

2 SECTION 7. Sections [841.0834](#)(b) and (d), Health and Safety  
3 Code, are amended to read as follows:

4 (b) Without the office's approval, a committed person may  
5 file a petition with the court for transfer to less restrictive  
6 housing and supervision. The court shall grant the transfer if the  
7 court determines that the transfer is in the best interests of the  
8 person and conditions can be imposed that adequately protect the  
9 community. A committed person who files a petition under this  
10 subsection shall serve a copy of the petition on the office.

11 (d) Not later than the 90th day after the date a [A]  
12 committed person is returned to a more restrictive setting under  
13 Subsection (c), the committing court shall hold a hearing via  
14 videoconference to [is entitled to file a petition with the court  
15 seeking] review [of] the office's determination. The court shall  
16 order the office to transfer the person to less restrictive housing  
17 and supervision only if the court determines by clear and  
18 convincing evidence that the office's determination was not made in  
19 accordance with Subsection (c). The committed person may waive the  
20 right to a hearing under this subsection.

21 SECTION 8. Section [841.0837](#), Health and Safety Code, is  
22 amended to read as follows:

23 Sec. 841.0837. EMERGENCY DETENTION ORDER. The [-(a) In this  
24 section, "peace officer" has the meaning assigned by Article 2.12,  
25 Code of Criminal Procedure.

26 ~~[(b) For the purpose of returning a committed person to a~~  
27 ~~more restrictive setting following a transfer to less restrictive~~

1 ~~housing and supervision under Section 841.0834 or a release under~~  
2 ~~Section 841.0836, the]~~ office may issue an emergency detention  
3 order for a committed ~~[the]~~ person's immediate apprehension and  
4 transportation to an office-designated ~~[a]~~ location for the purpose  
5 of:

6 (1) returning the person to a more restrictive setting  
7 following:

8 (A) a transfer to less restrictive housing and  
9 supervision under Section 841.0834; or

10 (B) a release under Section 841.0836; or

11 (2) for a recently committed person who is not in the  
12 custody of the Texas Department of Criminal Justice at the time the  
13 commitment order is entered, bringing the person under the  
14 supervision of ~~[designated by]~~ the office.

15 SECTION 9. Section 841.084, Health and Safety Code, is  
16 amended by adding Subsection (c) to read as follows:

17 (c) A committed person, on request, shall provide to the  
18 office any financial records or other information regarding the  
19 person's income, assets, and expenses to assist the office in  
20 determining whether the person is indigent for purposes of this  
21 section.

22 SECTION 10. Section 841.146(a), Health and Safety Code, is  
23 amended to read as follows:

24 (a) On request, a person subject to a civil commitment  
25 proceeding under this chapter and the attorney representing the  
26 state are entitled to a jury trial or a hearing before a jury for  
27 that proceeding, except for a proceeding set by the judge under

1 Section [841.102\(c\)\(1\)](#). The jury shall consist of 12 qualified  
2 jurors. The judge may direct that not more than four jurors in  
3 addition to the regular jury be called and impaneled to sit as  
4 alternate jurors. Each party is entitled to 10 peremptory  
5 challenges to the 12 qualified jurors and one peremptory challenge  
6 to the qualified alternate jurors [~~The number and selection of~~  
7 ~~jurors are governed by Chapter 33, Code of Criminal Procedure~~].

8 SECTION 11. Section [841.151](#), Health and Safety Code, is  
9 amended by amending Subsection (c) and adding Subsection (c-1) to  
10 read as follows:

11 (c) Except as provided by Subsection (c-1), as [~~As~~] soon as  
12 practicable before, but not later than the third business day  
13 preceding, the date a correctional facility, secure correctional  
14 facility, or secure detention facility releases a person who, at  
15 the time of the person's detention or confinement, was civilly  
16 committed under this chapter as a sexually violent predator, the  
17 facility shall notify the office and the person's case manager in  
18 writing of the anticipated date and time of the person's release.

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

23 SECTION 12. Section [841.0834\(e\)](#), Health and Safety Code, is  
24 repealed.

25 SECTION 13. (a) Except as otherwise provided by this  
26 section, the changes in law made by this Act to Chapter [841](#), Health  
27 and Safety Code, apply to a civil commitment proceeding under that



1 chapter that is initiated on or after the effective date of this  
2 Act, regardless of when the applicable petition for civil  
3 commitment was filed.

4 (b) Section 841.0834, Health and Safety Code, as amended by  
5 this Act, applies only to a petition for transfer that is filed or  
6 to a return to a more restrictive setting that occurs on or after  
7 the effective date of this Act. A petition filed or a return that  
8 occurs before the effective date of this Act is governed by the law  
9 in effect on the date the petition was filed or the return occurred,  
10 and the former law is continued in effect for that purpose.

11 (c) Section 841.151, Health and Safety Code, as amended by  
12 this Act, applies only to the release of a committed person that  
13 occurs on or after the effective date of this Act. The release of a  
14 committed person that occurs before the effective date of this Act  
15 is governed by the law in effect on the date the person was  
16 released, and the former law is continued in effect for that  
17 purpose.

18 SECTION 14. This Act takes effect September 1, 2021.