

By: Perry
(Herrero)

S.B. No. 1179

A BILL TO BE ENTITLED

AN ACT

relating to sexually violent predators and the prosecution of certain offenses involving prohibited items at correctional or civil commitment facilities; creating a criminal offense.

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

SECTION 1. Section 20.02(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a Class A misdemeanor, except that the offense is:

(1) a state jail felony if the person restrained was a child younger than 17 years of age;

(2) a felony of the third degree if:

(A) the actor recklessly exposes the victim to a substantial risk of serious bodily injury;

(B) the actor restrains an individual the actor knows is a public servant while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant; or

(C) the actor, while in custody or committed to a civil commitment facility, restrains any other person; or

(3) notwithstanding Subdivision (2)(B), a felony of the second degree if the actor restrains an individual the actor knows is a peace officer or judge while the officer or judge is

1 lawfully discharging an official duty or in retaliation or on
2 account of an exercise of official power or performance of an
3 official duty as a peace officer or judge.

4 SECTION 2. Section 21.07(b), Penal Code, is amended to read
5 as follows:

6 (b) An offense under this section is a Class A misdemeanor,
7 except that the offense is a felony of the third degree if the actor
8 is civilly committed as a sexually violent predator under Chapter
9 841, Health and Safety Code.

10 SECTION 3. Section 21.08(b), Penal Code, is amended to read
11 as follows:

12 (b) An offense under this section is a Class B misdemeanor,
13 except that the offense is a felony of the third degree if the actor
14 is civilly committed as a sexually violent predator under Chapter
15 841, Health and Safety Code.

16 SECTION 4. Section 22.01(b-1), Penal Code, is amended to
17 read as follows:

18 (b-1) Notwithstanding Subsections [~~Subsection~~] (b) and (c),
19 an offense under Subsection (a) [~~(a)(1)~~] is a felony of the third
20 degree if the offense is committed:

21 (1) by an [~~while the~~] actor who is committed to a civil
22 commitment facility; and

23 (2) against:

24 (A) a person the actor knows is an officer or
25 employee of the Texas Civil Commitment Office:

26 (i) while the officer or employee is
27 lawfully discharging an official duty [~~at a civil commitment~~

1 ~~facility~~]; or

2 (ii) in retaliation for or on account of an
3 exercise of official power or performance of an official duty by the
4 officer or employee; or

5 (B) a person the actor knows is contracting [~~who~~
6 ~~contracts~~] with the state to perform a service in a civil commitment
7 facility or an employee of that person:

8 (i) while the person or employee is engaged
9 in performing a service within the scope of the contract [~~, if the~~
10 ~~actor knows the person or employee is authorized by the state to~~
11 ~~provide the service~~]; or

12 (ii) in retaliation for or on account of the
13 person's or employee's performance of a service within the scope of
14 the contract.

15 SECTION 5. Section 38.11, Penal Code, is amended by
16 amending Subsections (a), (d), and (k) and adding Subsection (j-1)
17 to read as follows:

18 (a) A person commits an offense if the person provides, or
19 possesses with the intent to provide:

20 (1) an alcoholic beverage, controlled substance, or
21 dangerous drug to a person in the custody of a correctional facility
22 or residing in a civil commitment facility, except on the
23 prescription of a practitioner;

24 (2) a deadly weapon to a person in the custody of a
25 correctional facility or residing in a civil commitment facility;

26 (3) a cellular telephone or other wireless
27 communications device or a component of one of those devices to a

1 person in the custody of a correctional facility;

2 (4) money to a person confined in a correctional
3 facility; or

4 (5) a cigarette or tobacco product to a person
5 confined in a correctional facility, except that if the facility is
6 a local jail regulated by the Commission on Jail Standards, the
7 person commits an offense only if providing the cigarette or
8 tobacco product violates a rule or regulation adopted by the
9 sheriff or jail administrator that:

10 (A) prohibits the possession of a cigarette or
11 tobacco product by a person confined in the jail; or

12 (B) places restrictions on:

13 (i) the possession of a cigarette or
14 tobacco product by a person confined in the jail; or

15 (ii) the manner in which a cigarette or
16 tobacco product may be provided to a person confined in the jail.

17 (d) A person commits an offense if the person:

18 (1) possesses an alcoholic beverage, [~~a~~] controlled
19 substance, or dangerous drug while in a correctional facility or
20 civil commitment facility or on property owned, used, or controlled
21 by a correctional facility or civil commitment facility; or

22 (2) possesses a deadly weapon while in a correctional
23 facility or civil commitment facility.

24 (j-1) A person commits an offense if the person, while
25 residing in a civil commitment facility, possesses a cellular
26 telephone or other wireless communications device or a component of
27 one of those devices unless the device or component is authorized by

1 the Texas Civil Commitment Office.

2 (k) A person commits an offense if, with the intent to
3 provide to or make a cellular telephone or other wireless
4 communications device or a component of one of those devices
5 available for use by a person in the custody of a correctional
6 facility or residing in a civil commitment facility, the person:

7 (1) acquires a cellular telephone or other wireless
8 communications device or a component of one of those devices to be
9 delivered to the person in custody or residing in the facility;

10 (2) provides a cellular telephone or other wireless
11 communications device or a component of one of those devices to
12 another person for delivery to the person in custody or residing in
13 the facility; or

14 (3) makes a payment to a communication common carrier,
15 as defined by Article 18A.001, Code of Criminal Procedure, or to any
16 communication service that provides to its users the ability to
17 send or receive wire or electronic communications.

18 SECTION 6. Chapter 39, Penal Code, is amended by adding
19 Section 39.041 to read as follows:

20 Sec. 39.041. IMPROPER SEXUAL ACTIVITY WITH COMMITTED
21 PERSON. (a) In this section, "deviate sexual intercourse,"
22 "sexual contact," and "sexual intercourse" have the meanings
23 assigned by Section 21.01.

24 (b) An officer or employee of the Texas Civil Commitment
25 Office, a person who contracts with this state to perform a service
26 in a civil commitment facility or an employee of that person, or a
27 volunteer at a civil commitment facility commits an offense if the

1 person intentionally engages in deviate sexual intercourse, sexual
2 contact, or sexual intercourse with a person committed to a civil
3 commitment facility.

4 (c) An offense under this section is a felony of the third
5 degree.

6 (d) It is an affirmative defense to prosecution under this
7 section that, at the time of the offense, the actor was the spouse
8 of the person committed to the civil commitment facility.

9 (e) If conduct that constitutes an offense under this
10 section also constitutes an offense under any other law, the actor
11 may be prosecuted under this section, the other law, or both.

12 SECTION 7. Article 13.315, Code of Criminal Procedure, is
13 amended to read as follows:

14 Art. 13.315. FELONY OFFENSE COMMITTED BY CIVILLY COMMITTED
15 [FAILURE TO COMPLY WITH] SEXUALLY VIOLENT PREDATOR [CIVIL
16 COMMITMENT REQUIREMENT]. A felony [An] offense committed by a
17 person civilly committed under Chapter 841 [Section 841.085],
18 Health and Safety Code, may be prosecuted in the county in which any
19 element of the offense occurs or in the court that retains
20 jurisdiction over the civil commitment proceeding under Section
21 841.082, Health and Safety Code.

22 SECTION 8. Article 62.005(j), Code of Criminal Procedure,
23 is amended to read as follows:

24 (j) The department, for law enforcement purposes or for
25 supervision and treatment purposes, shall release all relevant
26 information described by Subsection (a), including information
27 that is not public information under Subsection (b), to a peace

1 officer, an employee of a local law enforcement authority, the
2 Texas Civil Commitment Office, or the attorney general on the
3 request of the applicable person or entity.

4 SECTION 9. Article 62.051, Code of Criminal Procedure, is
5 amended by amending Subsections (b), (e), and (f) and adding
6 Subsection (e-1) to read as follows:

7 (b) The department shall provide the Texas Department of
8 Criminal Justice, the Texas Juvenile Justice Department, the Texas
9 Civil Commitment Office, and each local law enforcement authority,
10 authority for campus security, county jail, and court with a form
11 for registering persons required by this chapter to register.

12 (e) Not later than the third day after the registration of a
13 person [~~a person's registering~~], the local law enforcement
14 authority with whom the person is registered shall send a copy of
15 the registration form to the department and, if the person resides
16 on the campus of a public or private institution of higher
17 education, to any authority for campus security for that
18 institution.

19 (e-1) The Texas Civil Commitment Office shall register with
20 the applicable local law enforcement authority on behalf of a
21 person who is civilly committed as a sexually violent predator
22 under Chapter 841, Health and Safety Code, and required to reside in
23 a civil commitment center. A person for whom registration is
24 completed under this subsection is not required to verify the
25 registration until the person is authorized to reside outside of
26 the civil commitment center.

27 (f) Not later than the seventh day after the date on which

1 the person is released or, for a person who is civilly committed as
2 a sexually violent predator under Chapter 841, Health and Safety
3 Code, authorized to reside outside of the civil commitment center,
4 a person for whom registration is completed under this chapter
5 shall report to the applicable local law enforcement authority to
6 verify the information in the registration form received by the
7 authority under this chapter. The authority shall require the
8 person to produce proof of the person's identity and residence
9 before the authority gives the registration form to the person for
10 verification. If the information in the registration form is
11 complete and accurate, the person shall verify registration by
12 signing the form. If the information is not complete or not
13 accurate, the person shall make any necessary additions or
14 corrections before signing the form.

15 SECTION 10. Subtitle A, Title 2, Civil Practice and
16 Remedies Code, is amended by adding Chapter 14A to read as follows:

17 CHAPTER 14A. LITIGATION BY CIVILLY COMMITTED INDIVIDUAL

18 SUBCHAPTER A. GENERAL PROVISIONS

19 Sec. 14A.001. DEFINITIONS. In this chapter:

20 (1) "Civilly committed individual" means a sexually
21 violent predator as described by Section 841.003, Health and Safety
22 Code, who has been committed to a facility operated by or under
23 contract with the office.

24 (2) "Claim" means a cause of action governed by this
25 chapter.

26 (3) "Office" means the Texas Civil Commitment Office.

27 (4) "Trust account" means a civilly committed

1 individual's trust account administered by the office or by a
2 facility under contract with the office.

3 (5) "Unsworn declaration" means a document executed in
4 accordance with Chapter 132.

5 Sec. 14A.002. SCOPE OF CHAPTER. (a) This chapter applies
6 only to an action, including an appeal or original proceeding,
7 brought by a civilly committed individual in a district, county, or
8 justice court or an appellate court, including the supreme court or
9 the court of criminal appeals, in which an affidavit or unsworn
10 declaration of inability to pay costs is filed by the civilly
11 committed individual.

12 (b) This chapter does not apply to an action brought under
13 the Family Code.

14 SUBCHAPTER B. DISMISSAL OF AND REQUIREMENTS FOR CLAIM

15 Sec. 14A.051. DISMISSAL OF FALSE, FRIVOLOUS, OR MALICIOUS
16 CLAIM. (a) A court may dismiss a claim, either before or after
17 service of process, if the court finds that:

18 (1) the allegation of poverty in the affidavit or
19 unsworn declaration is false;

20 (2) the claim is frivolous or malicious; or

21 (3) the civilly committed individual filed an
22 affidavit or unsworn declaration required by this chapter that the
23 individual knew was false.

24 (b) In determining whether a claim is frivolous or
25 malicious, the court may consider whether:

26 (1) the claim's realistic chance of ultimate success
27 is slight;

1 (2) the claim has no arguable basis in law or in fact;

2 (3) it is clear that the civilly committed individual
3 cannot prove the facts in support of the claim; or

4 (4) the claim is substantially similar to a previous
5 claim filed by the civilly committed individual because the claim
6 arises from the same operative facts.

7 (c) In determining whether Subsection (a) applies, the
8 court may hold a hearing. The hearing may be held before or after
9 service of process, and it may be held on motion of the court, a
10 party, or the court clerk.

11 (d) On the filing of a motion under Subsection (c), the
12 court shall suspend discovery relating to the claim pending the
13 hearing.

14 (e) A court that dismisses a claim brought by a civilly
15 committed individual housed in a facility operated by or under
16 contract with the office may notify the office of the dismissal and,
17 on the court's own motion or the motion of any party or the court
18 clerk, may advise the office that a mental health evaluation of the
19 individual may be appropriate.

20 Sec. 14A.052. AFFIDAVIT RELATING TO PREVIOUS FILINGS. (a)
21 A civilly committed individual who files an affidavit or unsworn
22 declaration of inability to pay costs shall file a separate
23 affidavit or declaration:

24 (1) identifying the court that ordered the
25 individual's civil commitment under Chapter 841, Health and Safety
26 Code;

27 (2) indicating whether any cause of action or

1 allegation contained in the petition has previously been filed in
2 any other court, and if so, stating the cause of action or
3 allegation previously filed and complying with Subdivision (6) and
4 Subsection (b);

5 (3) identifying each action, other than an action
6 under the Family Code, previously brought by the individual in
7 which the individual was not represented by an attorney, without
8 regard to whether the individual was civilly committed at the time
9 the action was brought;

10 (4) certifying that all grievance processes
11 applicable to the matter that is the basis of the claim, if any,
12 have been exhausted;

13 (5) certifying that no court has found the individual
14 to be a vexatious litigant under Chapter 11; and

15 (6) describing each action that was previously brought
16 by:

17 (A) stating the operative facts for which relief
18 was sought;

19 (B) listing the case name, the cause number, and
20 the court in which the action was brought;

21 (C) identifying each party named in the action;
22 and

23 (D) stating the result of the action, including
24 whether the action or a claim that was a basis for the action was
25 dismissed as frivolous or malicious under Section 13.001, 14.003,
26 or 14A.051 or otherwise.

27 (b) If the affidavit or unsworn declaration filed under this

1 section states that a previous action or claim was dismissed as
2 frivolous or malicious, the affidavit or unsworn declaration must
3 state the date of the final order affirming the dismissal.

4 (c) The affidavit or unsworn declaration must be
5 accompanied by the certified copy of the trust account statement
6 required by Section 14A.054(f).

7 Sec. 14A.053. GRIEVANCE SYSTEM DECISION; EXHAUSTION OF
8 ADMINISTRATIVE REMEDIES. (a) A civilly committed individual who
9 files a claim that is subject to a grievance system established by
10 the office or a facility under contract with the office shall file
11 with the court:

12 (1) an affidavit or unsworn declaration stating the
13 date that the grievance was filed and the date the written decision
14 was received by the individual; and

15 (2) a copy of the written decision from the grievance
16 system.

17 (b) A court shall dismiss a claim if the civilly committed
18 individual fails to file the claim before the 31st day after the
19 date the individual receives the written decision from the
20 grievance system.

21 (c) If a claim is filed before the grievance system
22 procedure is complete, the court shall stay the proceeding with
23 respect to the claim for a period not to exceed 180 days to permit
24 completion of the grievance system procedure.

25 Sec. 14A.054. COURT FEES, COURT COSTS, OTHER COSTS. (a) A
26 court may order a civilly committed individual who has filed a claim
27 to pay court fees, court costs, and other costs in accordance with

1 this section and Section 14A.055. The court clerk shall mail a copy
2 of the court's order and a certified bill of costs to the office or
3 facility under contract with the office, as appropriate.

4 (b) On the court's order, the civilly committed individual
5 shall pay an amount equal to the lesser of:

6 (1) 20 percent of the preceding six months' deposits to
7 the individual's trust account; or

8 (2) the total amount of court fees, court costs, and
9 other costs.

10 (c) In each month following the month in which payment is
11 made under Subsection (b), the civilly committed individual shall
12 pay an amount equal to the lesser of:

13 (1) 10 percent of that month's deposits to the trust
14 account; or

15 (2) the total amount of court fees, court costs, and
16 other costs that remains unpaid.

17 (d) Payments under Subsection (c) shall continue until the
18 total amount of court fees, court costs, and other costs are paid or
19 until the civilly committed individual is released from
20 confinement.

21 (e) On receipt of a copy of an order issued under Subsection
22 (a), the office or facility under contract with the office shall
23 withdraw money from the trust account in accordance with
24 Subsections (b), (c), and (d). The office or facility shall hold the
25 money in a separate account and shall forward the money to the court
26 clerk on the earlier of the following dates:

27 (1) the date the total amount to be forwarded equals

1 the total amount of court fees, court costs, and other costs that
2 remains unpaid; or

3 (2) the date the civilly committed individual is
4 released.

5 (f) The civilly committed individual shall file a certified
6 copy of the individual's trust account statement with the court.
7 The statement must reflect the balance of the account at the time
8 the claim is filed and activity in the account during the six months
9 preceding the date on which the claim is filed. The court may
10 request the office to provide the information required under this
11 subsection.

12 (g) A civilly committed individual may authorize payment in
13 addition to that required by this section.

14 (h) The court may dismiss a claim if the civilly committed
15 individual fails to pay fees and costs assessed under this section.

16 (i) A civilly committed individual may not avoid the fees
17 and costs assessed under this section by nonsuiting a party or by
18 voluntarily dismissing the action.

19 Sec. 14A.055. OTHER COSTS. (a) An order under Section
20 14A.054(a) must include the costs described by Subsection (b) if
21 the court finds that:

22 (1) the civilly committed individual has previously
23 filed an action to which this chapter or Chapter 14 applies; and

24 (2) a final order has been issued that affirms that the
25 action was dismissed as frivolous or malicious under Section
26 13.001, 14.003, or 14A.051 or otherwise.

27 (b) If Subsection (a) applies, costs of court must include

1 expenses incurred by the court or by the office or facility under
2 contract with the office, in connection with the claim and not
3 otherwise charged to the civilly committed individual under Section
4 14A.054, including:

5 (1) expenses of service of process;

6 (2) postage; and

7 (3) transportation, housing, or medical care incurred
8 in connection with the appearance of the individual in the court for
9 any proceeding.

10 Sec. 14A.056. HEARING. (a) The court may hold a hearing
11 under this chapter at a facility operated by or under contract with
12 the office or may conduct the hearing with video communications
13 technology that permits the court to see and hear the civilly
14 committed individual and that permits the individual to see and
15 hear the court and any other witness.

16 (b) A hearing conducted under this section by video
17 communications technology shall be recorded on videotape or by
18 other electronic means. The recording is sufficient to serve as a
19 permanent record of the hearing.

20 Sec. 14A.057. SUBMISSION OF EVIDENCE. (a) The court may
21 request a person with an admissible document or admissible
22 testimony relevant to the subject matter of the hearing to submit a
23 copy of the document or written statement stating the substance of
24 the testimony.

25 (b) A written statement submitted under this section must be
26 made under oath or made as an unsworn declaration under Section
27 132.001.

1 (c) A copy of a document submitted under this section must
2 be accompanied by a certification executed under oath by an
3 appropriate custodian of the record stating that the copy is
4 correct and any other matter relating to the admissibility of the
5 document that the court requires.

6 (d) A person submitting a written statement or document
7 under this section is not required to appear at the hearing.

8 (e) The court shall require that the civilly committed
9 individual be provided with a copy of each written statement or
10 document not later than the 14th day before the date on which the
11 hearing is to begin.

12 Sec. 14A.058. DISMISSAL OF CLAIM. (a) The court may enter
13 an order dismissing the entire claim or a portion of the claim under
14 this chapter.

15 (b) If a portion of the claim is dismissed, the court shall
16 designate the issues and defendants on which the claim may proceed,
17 subject to Sections 14A.054 and 14A.055.

18 (c) An order under this section is not subject to
19 interlocutory appeal by the civilly committed individual.

20 Sec. 14A.059. EFFECT ON OTHER CLAIMS. (a) Except as
21 provided by Subsection (b), on receipt of an order assessing fees
22 and costs under Section 14A.054 that indicates that the court made
23 the finding described by Section 14A.055(a), a court clerk may not
24 accept for filing another claim by the civilly committed individual
25 until the fees and costs assessed under Section 14A.054 are paid.

26 (b) A court may allow a civilly committed individual who has
27 not paid the fees and costs assessed against the individual to file

1 a claim for injunctive relief seeking to enjoin an act or failure to
2 act that creates a substantial threat of irreparable injury or
3 serious physical harm to the individual.

4 Sec. 14A.060. QUESTIONNAIRE. To implement this chapter, a
5 court may develop, for use in that court, a questionnaire to be
6 filed by the civilly committed individual.

7 Sec. 14A.061. REVIEW AND RECOMMENDATION BY MAGISTRATES.

8 (a) The supreme court shall, by rule, adopt a system under which a
9 court may refer a suit governed by this chapter to a magistrate for
10 review and recommendation.

11 (b) The system adopted under Subsection (a) may be funded
12 from money appropriated to the supreme court or from money received
13 by the supreme court through interagency contract or contracts.

14 (c) For the purposes of Section 14A.062, the adoption of a
15 system by rule under Subsection (a) does not constitute a
16 modification or repeal of a provision of this chapter.

17 Sec. 14A.062. CONFLICT WITH TEXAS RULES OF CIVIL PROCEDURE.
18 Notwithstanding Section 22.004, Government Code, this chapter may
19 not be modified or repealed by a rule adopted by the supreme court.

20 SECTION 11. Title 4, Civil Practice and Remedies Code, is
21 amended by adding Chapter 78B to read as follows:

22 CHAPTER 78B. LIMITED LIABILITY FOR FIRST RESPONDER WELLNESS CHECK
23 AT CIVIL COMMITMENT FACILITY

24 Sec. 78B.001. DEFINITIONS. In this chapter:

25 (1) "First responder" means a law enforcement, fire
26 protection, or emergency medical services employee, volunteer, or
27 agency, including:

1 (A) a peace officer, as defined by Article 2.12,
2 Code of Criminal Procedure;

3 (B) fire protection personnel, as defined by
4 Section 419.021, Government Code;

5 (C) a volunteer firefighter who is:

6 (i) certified by the Texas Commission on
7 Fire Protection or by the State Firefighters' and Fire Marshals'
8 Association of Texas; or

9 (ii) a member of an organized volunteer
10 firefighting unit that provides firefighting services without
11 compensation and conducts a minimum of two drills each month, each
12 two hours long;

13 (D) an individual certified as emergency medical
14 services personnel by the Department of State Health Services; and

15 (E) an agency of this state or a political
16 subdivision of this state authorized by law to employ or supervise
17 personnel described by Paragraphs (A)-(D).

18 (2) "Wellness check" means a request by any person for
19 a first responder to visit a civil commitment facility and
20 determine the current condition of a sexually violent predator who
21 is civilly committed under Chapter 841, Health and Safety Code.

22 Sec. 78B.002. CONSTRUCTION OF CHAPTER. This chapter may
23 not be construed to prohibit a first responder from performing a
24 wellness check.

25 Sec. 78B.003. LIMITED LIABILITY FOR REFUSAL TO PROVIDE
26 WELLNESS CHECK. (a) A first responder is not required to perform a
27 wellness check.

1 (b) A first responder is not liable for damages incurred
2 from the first responder's refusal to perform a wellness check.

3 (c) A court shall immediately dismiss any action asserting a
4 claim described by Subsection (b).

5 Sec. 78B.004. REFERRAL TO TEXAS CIVIL COMMITMENT OFFICE. A
6 first responder may refer a person requesting a wellness check to
7 the Texas Civil Commitment Office, which may provide the person
8 with information regarding the current condition of the civilly
9 committed sexually violent predator if authorized under federal and
10 state law.

11 SECTION 12. Subchapter A, Chapter 411, Government Code, is
12 amended by adding Section 411.0092 to read as follows:

13 Sec. 411.0092. PRIMARY JURISDICTION. The sex offender
14 compliance unit described by Section 411.0091 has primary
15 jurisdiction to investigate a felony offense committed by a
16 sexually violent predator civilly committed under Chapter 841,
17 Health and Safety Code.

18 SECTION 13. Section 420A.008, Government Code, is amended
19 to read as follows:

20 Sec. 420A.008. STAFF. The office may select and employ a
21 general counsel, staff attorneys, a family liaison officer
22 described by Section 420A.012, and other staff necessary to perform
23 the office's functions.

24 SECTION 14. Chapter 420A, Government Code, is amended by
25 adding Sections 420A.012 and 420A.013 to read as follows:

26 Sec. 420A.012. FAMILY LIAISON OFFICER. (a) The office may
27 designate an employee to serve as a family liaison officer. The

1 family liaison officer may, as the office determines appropriate:

2 (1) facilitate the continuation and maintenance of
3 ties between a civilly committed sex offender and the offender's
4 family members who are supportive of the offender's participation
5 in the treatment and supervision program;

6 (2) notify an offender regarding emergencies
7 concerning the offender's family and provide the offender with
8 other necessary information related to the offender's family; and

9 (3) assist in resolving problems that may affect
10 permitted contact with an offender.

11 (b) Before each required quarterly meeting of the board, a
12 family liaison officer designated under this section may provide an
13 update to the board regarding the officer's activities.

14 (c) This section does not:

15 (1) require the office to designate a family liaison
16 officer; or

17 (2) guarantee to a civilly committed sex offender or
18 family member of an offender any additional right or privilege that
19 is not already required by state or federal law.

20 (d) In implementing this section, the office may adopt any
21 policy or impose any limitation the office considers necessary.

22 Sec. 420A.013. FAMILY UNITY AND PARTICIPATION. (a) The
23 office may adopt and implement policies that encourage family unity
24 during a civilly committed sex offender's commitment. In adopting
25 the policies, the office may consider the impact of a telephone,
26 mail, and in-person visitation policy on a family member's ability
27 to provide support to the offender through ongoing, appropriate

1 contact with the offender while the offender participates in the
2 treatment and supervision program.

3 (b) This section does not guarantee to a civilly committed
4 sex offender or family member of an offender any additional right or
5 privilege that is not already required by state or federal law.

6 (c) In implementing this section, the office may adopt any
7 policy or impose any limitation the office considers necessary.

8 SECTION 15. Subchapter C, Chapter 552, Government Code, is
9 amended by adding Section 552.1345 to read as follows:

10 Sec. 552.1345. EXCEPTION: CONFIDENTIALITY OF CERTAIN
11 INFORMATION RELATING TO CIVILLY COMMITTED SEXUALLY VIOLENT
12 PREDATORS. (a) Except as provided by Subsection (b), information
13 obtained or maintained by the Texas Civil Commitment Office is
14 excepted from the requirements of Section 552.021 if it is
15 information about a person who is civilly committed as a sexually
16 violent predator under Chapter 841, Health and Safety Code.

17 (b) Subsection (a) does not apply to statistical or other
18 aggregated information relating to persons civilly committed to one
19 or more facilities operated by or under a contract with the office.

20 SECTION 16. Subchapter I, Chapter 2001, Government Code, is
21 amended by adding Section 2001.227 to read as follows:

22 Sec. 2001.227. TEXAS CIVIL COMMITMENT OFFICE. This chapter
23 does not apply to a rule or internal procedure of the Texas Civil
24 Commitment Office that applies to a person who is civilly committed
25 as a sexually violent predator under Chapter 841, Health and Safety
26 Code, or to an action taken under that rule or procedure.

27 SECTION 17. Section 2155.144(a), Government Code, is

1 amended to read as follows:

2 (a) This section applies only to the Health and Human
3 Services Commission, each health and human services agency, ~~and~~
4 the Department of Family and Protective Services, and agencies
5 administratively attached to the Health and Human Services
6 Commission. For the purposes of this section, the Department of
7 Family and Protective Services or an agency administratively
8 attached to the Health and Human Services Commission is considered
9 a health and human services agency.

10 SECTION 18. Section 109.051(b), Occupations Code, is
11 amended to read as follows:

12 (b) Notwithstanding Subtitle B, Title 3, of this code or
13 Chapter 611, Health and Safety Code, a person described by
14 Subsection (a), on request or in the normal course of business,
15 shall release information concerning the treatment of a sex
16 offender to:

- 17 (1) another person described by Subsection (a);
18 (2) a criminal justice agency; ~~or~~
19 (3) a local law enforcement authority; or
20 (4) the Texas Civil Commitment Office.

21 SECTION 19. Section 109.052, Occupations Code, is amended
22 to read as follows:

23 Sec. 109.052. RELEASE BY CRIMINAL JUSTICE AGENCY. A
24 criminal justice agency, on request or in the normal course of
25 official business, shall release information concerning the
26 treatment of a sex offender to:

- 27 (1) another criminal justice agency;

- 1 (2) a local law enforcement authority; ~~[or]~~
- 2 (3) a person described by Section 109.051(a); or
- 3 (4) the Texas Civil Commitment Office.

4 SECTION 20. Section 109.053, Occupations Code, is amended
5 to read as follows:

6 Sec. 109.053. RELEASE BY LOCAL LAW ENFORCEMENT AUTHORITY.
7 A local law enforcement authority, on request or in the normal
8 course of official business, shall release information concerning
9 the treatment of a sex offender to:

- 10 (1) another local law enforcement authority;
- 11 (2) a criminal justice agency; ~~[or]~~
- 12 (3) a person described by Section 109.051(a); or
- 13 (4) the Texas Civil Commitment Office.

14 SECTION 21. Sections 841.002(1) and (8), Health and Safety
15 Code, are amended to read as follows:

16 (1) "Attorney representing the state" means a district
17 attorney, criminal district attorney, or county attorney with
18 felony criminal jurisdiction who represents the state in a [~~civil~~
19 ~~commitment~~] proceeding under this chapter.

20 (8) "Sexually violent offense" means:

- 21 (A) an offense under Section 21.02, 21.11(a)(1),
22 22.011, or 22.021, Penal Code;
- 23 (B) an offense under Section 20.04(a)(4), Penal
24 Code, if the person committed the offense with the intent to violate
25 or abuse the victim sexually;
- 26 (C) an offense under Section 30.02, Penal Code,
27 if the offense is punishable under Subsection (d) of that section

1 and the person entered the habitation [~~committed the offense~~] with
2 the intent to commit an offense listed in Paragraph (A) or (B) or
3 committed or attempted to commit an offense listed in Paragraph (A)
4 or (B);

5 (D) an offense under Section 19.02 or 19.03,
6 Penal Code, that, during the guilt or innocence phase or the
7 punishment phase for the offense, during the adjudication or
8 disposition of delinquent conduct constituting the offense, or
9 subsequently during a civil commitment proceeding under Subchapter
10 D, is determined beyond a reasonable doubt to have been based on
11 sexually motivated conduct;

12 (E) an attempt, conspiracy, or solicitation, as
13 defined by Chapter 15, Penal Code, to commit an offense listed in
14 Paragraph (A), (B), (C), or (D);

15 (F) an offense under prior state law that
16 contains elements substantially similar to the elements of an
17 offense listed in Paragraph (A), (B), (C), (D), or (E); or

18 (G) an offense under the law of another state,
19 federal law, or the Uniform Code of Military Justice that contains
20 elements substantially similar to the elements of an offense listed
21 in Paragraph (A), (B), (C), (D), or (E).

22 SECTION 22. Section 841.042, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 841.042. ASSISTANCE FROM SPECIAL PROSECUTION UNIT. On
25 request of the attorney representing the state, the special
26 prosecution unit shall provide legal, financial, and technical
27 assistance to the attorney for a [~~civil commitment~~] proceeding

1 conducted under this chapter.

2 SECTION 23. Section 841.0834, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 841.0834. MOVEMENT BETWEEN PROGRAMMING TIERS. (a)
5 The office shall transfer between programming tiers a committed
6 person required to reside in a total confinement facility [~~to less~~
7 ~~restrictive housing and supervision~~] if the transfer is in the best
8 interests of the person and conditions can be imposed that
9 adequately protect the community.

10 (b) Without the office's approval, a committed person may
11 file a petition with the court for transfer to the next less
12 restrictive tier [~~housing and supervision~~]. The court shall deny
13 the transfer if the petition is filed before the 180th day after the
14 date an order was entered under Subchapter D, F, or G or a previous
15 order was entered under this section. The court shall grant the
16 transfer if the court determines by clear and convincing evidence
17 that the transfer is in the best interests of the person and that
18 the office can impose conditions [~~can be imposed~~] that adequately
19 protect the community.

20 (c) A committed person who files a petition under Subsection
21 (b) [~~this subsection~~] shall serve a copy of the petition on the
22 office and the attorney representing the state.

23 (d) [~~(c)~~] The office shall transfer [~~return~~] a committed
24 person who is not required to reside in a total confinement facility
25 back [~~has been transferred to less restrictive housing and~~
26 ~~supervision~~] to a more restrictive setting in a total confinement
27 facility if the office considers the transfer necessary to further

1 treatment and to protect the community. The decision to transfer
2 the person must be based on the person's behavior or progress in
3 treatment.

4 (e) [~~(d)~~] Not later than the 90th day after the date a
5 committed person is returned to a more restrictive setting in a
6 total confinement facility under Subsection (d) [~~(e)~~], the
7 committing court shall hold a hearing via videoconference to review
8 the office's determination. The court shall order the office to
9 transfer the person to a less restrictive tier [~~housing and~~
10 ~~supervision~~] only if the court determines by clear and convincing
11 evidence that the office's determination was not made in accordance
12 with Subsection (d) [~~(e)~~]. The committed person may waive the right
13 to a hearing under this subsection.

14 SECTION 24. Section 841.0838, Health and Safety Code, is
15 amended to read as follows:

16 Sec. 841.0838. USE OF RESTRAINTS. (a) An employee of the
17 office, or a person who contracts with the office or an employee of
18 that person, may use mechanical [~~or chemical~~] restraints on a
19 committed person residing in a civil commitment center or while
20 transporting a committed person who resides at the center only if:

21 (1) the employee or person completes a training
22 program approved by the office on the use of mechanical restraints
23 that:

24 (A) includes instruction on the office's
25 approved mechanical restraint techniques and devices and the
26 office's verbal de-escalation policies, procedures, and practices;
27 and

1 (B) requires the employee or person to
2 demonstrate competency in the use of the mechanical restraint
3 techniques and devices; and

4 (2) the mechanical restraint is:

5 (A) considered necessary to maintain the safety
6 and security of the center or staff [~~used as a last resort~~];

7 (B) considered necessary to maintain the safety
8 of the public [~~necessary to stop or prevent~~:

9 [(i) ~~imminent physical injury to the~~
10 ~~committed person or another~~;

11 [(ii) ~~threatening behavior by the committed~~
12 ~~person while the person is using or exhibiting a weapon~~;

13 [(iii) ~~a disturbance by a group of~~
14 ~~committed persons~~; or

15 [(iv) ~~an absconsion from the center~~]; and

16 (C) the least restrictive restraint necessary,
17 used for the minimum duration necessary[, ~~to prevent the injury,~~
18 ~~property damage, or absconsion~~].

19 (b) An employee of the office, or a person who contracts
20 with the office or an employee of that person, may use chemical
21 restraints on a committed person residing in a civil commitment
22 center or while transporting a committed person who resides at the
23 center only if:

24 (1) the employee or person completes a training
25 program approved by the office on the use of chemical restraints
26 that:

27 (A) includes instruction on the office's

1 approved chemical restraint techniques and devices and the office's
2 verbal de-escalation policies, procedures, and practices; and

3 (B) requires the employee or person to
4 demonstrate competency in the use of chemical restraint techniques
5 and devices; and

6 (2) the chemical restraint is:

7 (A) used as a last resort;

8 (B) necessary to prevent or stop:

9 (i) physical injury to the committed person
10 or another;

11 (ii) threatening behavior by the committed
12 person;

13 (iii) a disturbance by a group of committed
14 persons; or

15 (iv) an absconsion from the center; and

16 (C) the least restrictive restraint necessary,
17 used for the minimum duration necessary, to prevent injury,
18 property damage, or absconsion.

19 (c) The office shall develop procedures governing the use of
20 mechanical or chemical restraints on committed persons.

21 SECTION 25. Section 841.102(c), Health and Safety Code, is
22 amended to read as follows:

23 (c) The judge shall set a hearing if the judge determines by
24 a preponderance of the evidence at the biennial review that:

25 (1) a requirement imposed on the person under this
26 chapter should be modified; or

27 (2) [~~probable cause exists to believe that~~] the

1 person's behavioral abnormality has changed to the extent that the
2 person is no longer likely to engage in a predatory act of sexual
3 violence.

4 SECTION 26. Sections 841.123(a), (c), and (d), Health and
5 Safety Code, are amended to read as follows:

6 (a) If the committed person files a petition for release
7 without the office's authorization, the person shall serve the
8 petition on the court, ~~and~~ the attorney representing the state,
9 and the office.

10 (c) Except as provided by Subsection (d), the judge shall
11 deny without a hearing a petition for release filed without the
12 office's authorization if ~~[the petition is frivolous or if]:~~

13 (1) the judge determines by a preponderance of the
14 evidence that [petitioner previously filed without the office's
15 authorization another petition for release; and

16 ~~[(2) the judge determined on review of the previous~~
17 ~~petition or following a hearing that:~~

18 ~~[(A) the petition was frivolous; or~~

19 ~~[(B)] the petitioner's behavioral abnormality~~
20 has ~~had~~ not changed to the extent that the petitioner is ~~was~~ no
21 longer likely to engage in a predatory act of sexual violence; or

22 (2) the petitioner has filed the petition for release
23 before the 180th day after the date an order was entered under
24 Subchapter D or F or a previous order was entered under this
25 section.

26 (d) The judge is not required to deny a petition under
27 Subsection (c) (2) if the judge determines by a preponderance of the

1 evidence [~~probable cause exists to believe~~] that the petitioner's
2 behavioral abnormality has changed to the extent that the
3 petitioner is no longer likely to engage in a predatory act of
4 sexual violence.

5 SECTION 27. Chapter 841, Health and Safety Code, is amended
6 by adding Subchapter I to read as follows:

7 SUBCHAPTER I. ADMINISTRATION OF CERTAIN MEDICATION TO CERTAIN
8 SEXUALLY VIOLENT PREDATORS

9 Sec. 841.201. DEFINITIONS. In this subchapter:

10 (1) "Capacity" means a committed person's ability to:

11 (A) understand the nature and consequences of a
12 proposed treatment, including the benefits, risks, and
13 alternatives to the proposed treatment; and

14 (B) make a decision whether to undergo the
15 proposed treatment.

16 (2) "Medication-related emergency" means a situation
17 in which it is immediately necessary to administer medication to a
18 committed person to prevent:

19 (A) imminent probable death or substantial
20 bodily harm to the committed person because the committed person:

21 (i) overtly or continually is threatening
22 or attempting to commit suicide or serious bodily harm; or

23 (ii) is behaving in a manner that indicates
24 that the committed person is unable to satisfy the committed
25 person's need for nourishment, essential medical care, or
26 self-protection; or

27 (B) imminent physical or emotional harm to

1 another because of threats, attempted acts, or acts the committed
2 person overtly or continually makes or commits.

3 (3) "Psychoactive medication" has the meaning
4 assigned by Section 574.101.

5 Sec. 841.202. ADMINISTRATION OF MEDICATION TO COMMITTED
6 PERSON. A person may not administer a psychoactive medication to a
7 committed person who refuses to take the medication voluntarily
8 unless:

9 (1) the committed person is having a
10 medication-related emergency; or

11 (2) the committed person is under an order issued
12 under Section 841.205 authorizing the administration of medication
13 regardless of the committed person's refusal.

14 Sec. 841.203. PHYSICIAN'S APPLICATION FOR ORDER TO
15 AUTHORIZE PSYCHOACTIVE MEDICATION; DATE OF HEARING. (a) A
16 physician who is treating a committed person may, on behalf of the
17 state, file an application in a probate court or a court with
18 probate jurisdiction for an order to authorize the administration
19 of a psychoactive medication regardless of the committed person's
20 refusal if:

21 (1) the physician believes that the committed person
22 lacks the capacity to make a decision regarding the administration
23 of the psychoactive medication;

24 (2) the physician determines that the medication is
25 the proper course of treatment for the committed person;

26 (3) the committed person is receiving mental health
27 services under Section 841.0835 or other law; and

1 (4) the committed person, verbally or by other
2 indication, refuses to take the medication voluntarily.

3 (b) An application filed under this section must state:

4 (1) that the physician believes that the committed
5 person lacks the capacity to make a decision regarding
6 administration of the psychoactive medication and the reasons for
7 that belief;

8 (2) each medication the physician wants the court to
9 compel the committed person to take;

10 (3) whether the committed person is receiving mental
11 health services under Section 841.0835 or other law;

12 (4) the physician's diagnosis of the committed person;
13 and

14 (5) the proposed method for administering the
15 medication and, if the method is not customary, an explanation
16 justifying the departure from the customary methods.

17 (c) An application filed under this section is separate from
18 an application for court-ordered mental health services.

19 (d) A hearing on the application must be held not later than
20 the 30th day after the date the application was filed. If the
21 committed person is transferred to a mental health facility in
22 another county, the court may transfer the application to the
23 county where the committed person has been transferred.

24 (e) Subject to the requirement in Subsection (d) that the
25 hearing be held not later than the 30th day after the date the
26 application was filed, the court may grant one continuance on a
27 party's motion and for good cause shown. The court may grant more

1 than one continuance only with the agreement of the parties.

2 Sec. 841.204. RIGHTS OF COMMITTED PERSON. A committed
3 person for whom an application under Section 841.203 is filed is
4 entitled to:

5 (1) representation by a court-appointed attorney who
6 is knowledgeable about issues to be adjudicated at the hearing;

7 (2) meet with that attorney as soon as is practicable
8 to prepare for the hearing and to discuss any of the committed
9 person's questions or concerns;

10 (3) receive, immediately after the time of the hearing
11 is set, a copy of the application and written notice of the time,
12 place, and date of the hearing;

13 (4) be told, at the time personal notice of the hearing
14 is given, of the committed person's right to a hearing and right to
15 the assistance of an attorney to prepare for the hearing and to
16 answer any questions or concerns;

17 (5) be present at the hearing;

18 (6) request from the court an independent expert; and

19 (7) be notified orally, at the conclusion of the
20 hearing, of the court's determinations of the committed person's
21 capacity and best interests.

22 Sec. 841.205. HEARING AND ORDER AUTHORIZING PSYCHOACTIVE
23 MEDICATION. (a) The court may issue an order authorizing the
24 administration of one or more classes of psychoactive medication to
25 a committed person who is receiving mental health services under
26 Section 841.0835 or other law.

27 (b) The court may issue an order under this section only if

1 the court finds by clear and convincing evidence after a hearing
2 that the committed person:

3 (1) lacks the capacity to make a decision regarding
4 the administration of the proposed medication and treatment with
5 the proposed medication is in the best interest of the committed
6 person; or

7 (2) as determined under Section 841.206, presents a
8 danger to the committed person or others in the civil commitment
9 center in which the committed person is being treated.

10 (c) In making the finding that treatment with the proposed
11 medication is in the best interest of the committed person, the
12 court shall consider:

13 (1) the committed person's expressed preferences
14 regarding treatment with psychoactive medication;

15 (2) the committed person's religious beliefs;

16 (3) the risks and benefits, from the perspective of
17 the committed person, of taking psychoactive medication;

18 (4) the consequences to the committed person if the
19 psychoactive medication is not administered;

20 (5) the prognosis for the committed person if the
21 committed person is treated with psychoactive medication;

22 (6) alternative, less intrusive treatments that are
23 likely to produce the same results as treatment with psychoactive
24 medication; and

25 (7) less intrusive treatments likely to secure the
26 committed person's agreement to take the psychoactive medication.

27 (d) A hearing under this subchapter shall be conducted on

1 the record by the probate judge or judge with probate jurisdiction,
2 except as provided by Subsection (e).

3 (e) A judge may refer a hearing to a magistrate or
4 court-appointed associate judge who has training regarding
5 psychoactive medications. The magistrate or associate judge may
6 provide the notice, set hearing dates, and appoint attorneys as
7 required by this subchapter. A record is not required if the
8 hearing is held by a magistrate or court-appointed associate judge.

9 (f) A party is entitled to a hearing de novo by the judge if
10 an appeal of the magistrate's or associate judge's report is filed
11 with the court not later than the third day after the date the
12 report is issued. The hearing de novo must be held not later than
13 the 30th day after the date the application under Section 841.203
14 was filed.

15 (g) If a hearing or an appeal of a magistrate's or associate
16 judge's report is to be held in a county court in which the judge is
17 not a licensed attorney, the committed person or the committed
18 person's attorney may request that the proceeding be transferred to
19 a court with a judge who is licensed to practice law in this state.
20 The county judge shall transfer the case after receiving the
21 request, and the receiving court shall hear the case as if it had
22 been originally filed in that court.

23 (h) As soon as practicable after the conclusion of the
24 hearing, the committed person is entitled to have provided to the
25 committed person and the committed person's attorney written
26 notification of the court's determinations under this section. The
27 notification must include a statement of the evidence on which the

1 court relied and the reasons for the court's determinations.

2 (i) An order issued under this section shall authorize the
3 administration to a committed person, regardless of the committed
4 person's refusal, of one or more classes of psychoactive
5 medications specified in the application and consistent with the
6 committed person's diagnosis. The order shall permit an increase
7 or decrease in a medication's dosage, continuation of medication
8 authorized but discontinued during the period the order is valid,
9 or the substitution of a medication within the same class.

10 (j) The classes of psychoactive medications in the order
11 must conform to classes determined by the Health and Human Services
12 Commission.

13 (k) An order issued under this section may be reauthorized
14 or modified on the petition of a party. The order remains in effect
15 pending action on a petition for reauthorization or modification.
16 For the purpose of this subsection, "modification" means a change
17 of a class of medication authorized in the order.

18 Sec. 841.206. FINDING THAT COMMITTED PERSON PRESENTS A
19 DANGER. In making a finding under Section 841.205(b)(2) that the
20 committed person presents a danger to the committed person or
21 others in the civil commitment center in which the committed person
22 is being treated, the court shall consider:

23 (1) an assessment of the committed person's present
24 mental condition;

25 (2) whether the committed person has inflicted,
26 attempted to inflict, or made a serious threat of inflicting
27 substantial physical or emotional harm to the committed person's

1 self or to another while in the center; and

2 (3) whether the committed person, in the 180-day
3 period preceding the date the committed person was placed in the
4 center, has inflicted, attempted to inflict, or made a serious
5 threat of inflicting substantial physical or emotional harm to
6 another.

7 Sec. 841.207. COSTS. (a) The court shall order the payment
8 of reasonable compensation to attorneys, physicians, language
9 interpreters, sign interpreters, and associate judges appointed
10 under this subchapter. The compensation paid shall be assessed as
11 court costs.

12 (b) The agency responsible for services under Section
13 841.0835(a) shall pay as provided by Subsection (a) the costs of a
14 hearing held under Section 841.205 regarding an order for the
15 administration of psychoactive medication to a committed person.

16 Sec. 841.208. APPEAL. (a) An appeal from an order issued
17 under Section 841.205, or from a renewal or modification of an
18 order, must be filed in the court of appeals for the county in which
19 the order is issued.

20 (b) Notice of appeal must be filed not later than the 10th
21 day after the date on which the order is issued.

22 (c) When an appeal is filed, the clerk shall immediately
23 send a certified transcript of the proceedings to the court of
24 appeals.

25 (d) An order issued under Section 841.205 is effective
26 pending an appeal of the order.

27 (e) The court of appeals and supreme court shall give an

1 appeal under this section preference over all other cases and shall
2 advance the appeal on the docket. The courts may suspend all rules
3 relating to the time for filing briefs and docketing cases.

4 Sec. 841.209. EXPIRATION OF ORDER. An order issued under
5 Section 841.205 expires on the first anniversary of the date the
6 order was issued.

7 SECTION 28. The changes in law made by this Act in amending
8 Sections 20.02, 21.07, 21.08, 22.01, and 38.11, Penal Code, apply
9 only to an offense committed on or after the effective date of this
10 Act. An offense committed before the effective date of this Act is
11 governed by the law in effect on the date the offense was committed,
12 and the former law is continued in effect for that purpose. For
13 purposes of this section, an offense was committed before the
14 effective date of this Act if any element of the offense occurred
15 before that date.

16 SECTION 29. Chapter 14A, Civil Practice and Remedies Code,
17 as added by this Act, applies only to an action filed on or after the
18 effective date of this Act.

19 SECTION 30. Chapter 78B, Civil Practice and Remedies Code,
20 as added by this Act, applies only to a cause of action that accrues
21 on or after the effective date of this Act.

22 SECTION 31. Subchapter I, Chapter 841, Health and Safety
23 Code, as added by this Act, applies to a hearing ordering the
24 administration of psychoactive medication to a committed person
25 under that chapter that occurs on or after the effective date of
26 this Act, regardless of whether the applicable conduct of the
27 committed person being evaluated for that purpose occurred before,

1 on, or after the effective date of this Act.

2 SECTION 32. This Act takes effect September 1, 2023.