

BILL ANALYSIS

S.B. 1610
By: Perry, Flores
Corrections
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Texas Civil Commitment Office (TCCO) provides treatment and supervision to individuals who have been civilly committed as sexually violent predators. The bill sponsor has informed the committee that TCCO has continued to encounter several challenges with problematic individuals who regularly hinder the effectiveness of TCCO's treatment and supervision programs. S.B. 1610 seeks to provide TCCO and law enforcement with additional tools to ensure compliance with TCCO policies and state law by enhancing penalties for certain assaultive offenses, providing for the prosecution of offenses committed by a civilly committed sexually violent predator, and revising sex offender registration requirements.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Offenses Committed by a Civilly Committed Sexually Violent Predator

S.B. 1610 amends the Penal Code to require the imprisonment of a defendant in the Texas Department of Criminal Justice (TDCJ) for life or any term of not more than 99 years or less than 25 years on conviction of a felony offense, other than a state jail felony, if it is shown on the trial that the defendant was civilly committed as a sexually violent predator at the time of the offense.

S.B. 1610 establishes that a person committed to a civil commitment facility who commits a third degree felony assault offense against an officer or employee of the Texas Civil Commitment Office (TCCO) or a person contracting with the state to perform a service in a civil commitment facility or an employee of that person, as applicable, is presumed to have known the person assaulted was such a TCCO officer, TCCO employee, or contractor or employee if the person was wearing a distinctive uniform or badge indicating the person's status as an officer or employee of TCCO or a contractor or employee of a contractor performing a service in a civil commitment facility.

S.B. 1610 enhances the penalty for indecent assault from a Class A misdemeanor to a third degree felony if the offense is committed by an actor who is committed to a civil commitment facility as follows:

- against a person the actor knows is a TCCO officer or employee:
 - while the officer or employee is lawfully discharging an official duty; or
 - in retaliation for or on account of an exercise of official power or performance of an official duty by the officer or employee; or
- against a person the actor knows is contracting with the state to perform a service in a civil commitment facility or an employee of that person:
 - in retaliation for or on account of the person's or employee's performance of a service within the scope of the contract; or
 - while the person or employee is engaged in performing a service within the scope of the contract.

S.B. 1610 enhances the penalty for aggravated assault from a second degree felony to a first degree felony if the offense is committed by an actor who is committed to a civil commitment facility as follows:

- against a person the actor knows is a TCCO officer or employee:
 - while the officer or employee is lawfully discharging an official duty; or
 - in retaliation for or on account of an exercise of official power or performance of an official duty by the officer or employee; or
- against a person the actor knows is contracting with the state to perform a service in a civil commitment facility or an employee of that person:
 - in retaliation for or on account of the person's or employee's performance of a service within the scope of the contract; or
 - while the person or employee is engaged in performing a service within the scope of the contract.

The bill establishes that for purposes of the penalty enhancement, the actor is presumed to have known the person assaulted was an officer or employee of TCCO or a person contracting with the state to perform a service in a civil commitment facility or an employee of that person if the applicable person was wearing a distinctive uniform or badge indicating the person's status as such.

S.B. 1610 expands the conduct that constitutes harassment by persons in certain facilities or of a public servant as follows:

- includes intent to annoy, abuse, torment, or embarrass the person among the requisite intent with which the commission of the requisite conduct constitutes the offense; and
- includes the following among the requisite conduct, committed with the requisite intent, that constitutes the offense:
 - while imprisoned or confined in a correctional or detention facility, causes another person to contact any fluid or liquid;
 - while committed to a civil commitment facility, causes a TCCO officer or employee to contact any fluid or liquid while the officer or employee is lawfully discharging an official duty at the facility or in retaliation for or on account of an exercise of official power or performance of an official duty by the officer or employee;
 - while committed to a civil commitment facility, causes a person who contracts with the state to perform a service in the facility or an employee of that person to contact any fluid or liquid while the person or employee is engaged in performing a service within the scope of the contract, if the actor knows the person or employee is authorized by the state to provide the service, or in retaliation for or on account of the person's or employee's performance of a service within the scope of the contract; or
 - causes another person the actor knows to be a public servant to contact any fluid or liquid while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of the public servant's official power or performance of an official duty.

For purposes of the conduct constituting the offense with respect to a person committed to a civil commitment facility, the bill establishes that the actor is presumed to have known the

person was a TCCO officer or employee or a person who contracts with the state to perform a service in a civil commitment facility or an employee of that person, as applicable, if the person was wearing a distinctive uniform or badge indicating the person's status as a TCCO officer or employee or a contractor or employee of a contractor performing a service in a civil commitment facility. The bill establishes that it is not a defense to prosecution for harassment by persons in certain facilities or of a public servant that the actor warned any person that the actor intended to commit the offense.

S.B. 1610 expands the definition of "public servant," for purposes of the offense of obstruction or retaliation under Penal Code provisions relating to offenses against public administration, to include a person who contracts with the state to perform a service in a civil commitment facility or an employee of that person.

S.B. 1610 expands the conduct that constitutes an offense regarding prohibited substances and items in a civil commitment facility to include the following:

- providing or possessing with the intent to provide a cigarette, e-cigarette, nicotine product, or tobacco product to a person residing in a civil commitment facility;
- possessing a cigarette, e-cigarette, nicotine product, or tobacco product while residing in a civil commitment facility; or
- manufacturing an alcoholic beverage while residing in a civil commitment facility.

For purposes of the offense, the bill defines "e-cigarette" by reference to Health and Safety Code provisions governing the distribution of cigarettes, e-cigarettes, or tobacco products and "nicotine product" as a product that contains nicotine from any source, regardless of whether the product is a tobacco product.

These provisions apply only to an offense committed on or after the bill's effective date. An offense committed before that date is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For these purposes, an offense was committed before the bill's effective date if any element of the offense was committed before that date.

Magistration and Prosecution of Offenses Committed by a Civilly Committed Sexually Violent Predator

S.B. 1610 amends the Code of Criminal Procedure to replace the authorization for the prosecution of a civil commitment requirement violation by a person who has been adjudicated and civilly committed as a sexually violent predator to be prosecuted in any county in which an element of the offense occurs or the court that retains jurisdiction over the civil commitment proceeding with an authorization for the prosecution of any felony offense committed by such a person in any county in which an element of the offense occurs or in the court that retains jurisdiction over the civil commitment proceeding.

S.B. 1610 authorizes any peace officer to arrest, without warrant, a person who the peace officer has probable cause to believe has committed a felony offense while civilly committed as a sexually violent predator. This authorization applies only to a person who is arrested on or after the bill's effective date. A person arrested before that date is governed by the law in effect on the date the person was arrested, and the former law is continued in effect for that purpose.

S.B. 1610 authorizes a magistrate, if an arrested person is civilly committed as a sexually violent predator and residing at a civil commitment facility, to choose to perform statutory duties relating to informing the person of the accusation and certain rights at the civil commitment facility. The bill excludes an accused person who is civilly committed as a sexually violent predator at the time of the offense from the statutory provision authorizing release without bond for fine-only misdemeanors. These provisions apply only to a person who is arrested on or after the bill's effective date. A person arrested before that date is governed by the law in effect on the date the person was arrested, and the former law is continued in effect for that purpose.

S.B. 1610, with respect to the requirement for a magistrate to immediately perform its statutorily prescribed duties after a person arrested without warrant is brought before the magistrate, clarifies that the magistrate may perform those duties in any manner permitted by provisions relating to the magistrate's duties following an arrest under warrant, as revised by the bill.

S.B. 1610 requires a judge or magistrate, before reducing the amount of bail set for a defendant charged with any felony offense committed while the defendant is civilly committed as a sexually violent predator, to provide the following:

- reasonable notice of the proposed bail reduction to the state's attorney; and
- an opportunity for a hearing concerning the proposed bail reduction on request of the state's attorney or the defendant or the defendant's counsel.

This requirement applies only to a person who is arrested on or after the bill's effective date. A person arrested before that date is governed by the law in effect on the date the person was arrested, and the former law is continued in effect for that purpose.

S.B. 1610 makes the requirement for the release on personal bond or reduction of bail required for a defendant detained in jail pending trial of an accusation if the state is not ready for trial within a specified deadline inapplicable to a defendant who is civilly committed as a sexually violent predator. This provision applies only to a person who is arrested on or after the bill's effective date. A person arrested before that date is governed by the law in effect on the date the person was arrested, and the former law is continued in effect for that purpose.

S.B. 1610 authorizes a magistrate to impose on a defendant who was civilly committed as a sexually violent predator at the time of the alleged offense any reasonable condition of bond related to the safety of a victim of the alleged offense, to the safety of the community, or to the safety of staff, contractors, or volunteers at a civil commitment facility but requires the magistrate to impose on the defendant the following conditions of bond:

- the defendant does not commit a new offense while released on bond; and
- the defendant complies with the defendant's civil commitment order for purposes of ensuring a safe environment at the civil commitment facility.

The bill requires a magistrate, at a hearing limited to determining whether the defendant violated a condition of bond imposed under these provisions, to revoke the defendant's bond and order that the defendant be immediately returned to custody if the magistrate finds by a preponderance of the evidence that the violation occurred. Once the defendant is placed in custody, the revocation of the defendant's bond discharges the sureties on the bond, if any, from any future liability on the bond. Such a discharge from any future liability on the bond does not discharge any surety from liability for previous forfeitures on the bond. The bill establishes that, for purposes of these provisions, "civil commitment facility" has the meaning assigned by the Penal Code. These provisions apply only to a person who is arrested on or after the bill's effective date. A person arrested before that date is governed by the law in effect on the date the person was arrested, and the former law is continued in effect for that purpose.

S.B. 1610 requires a court, if a defendant has been convicted in two or more cases and was civilly committed as a sexually violent predator at the time that any of the offenses were committed, to order the sentences for those offenses to run consecutively. This provision applies only to an offense committed on or after the bill's effective date. An offense committed before that date is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For these purposes, an offense was committed before the bill's effective date if any element of the offense was committed before that date.

Sex Offender Registration Program

S.B. 1610 amends the Code of Criminal Procedure to expand the definition of "reportable conviction or adjudication" for which registration is required under the sex offender registration program to include a conviction or adjudication, including an adjudication of delinquent conduct

or a deferred adjudication, that, regardless of the pendency of an appeal, is a conviction for or an adjudication for or based on a violation of any law of Texas for which the person has been civilly committed as a sexually violent predator.

S.B. 1610 grants immunity to a TCCO employee or officer from liability for good faith conduct under the sex offender registration program.

S.B. 1610 requires a person who has been civilly committed as a sexually violent predator but is not required to reside in a civil commitment center to report to the local law enforcement authority designated as the person's primary registration authority by the Department of Public Safety (DPS) not less than once in each 90-day period following the date the person first registered to verify the information in the registration form maintained by the authority for that person.

S.B. 1610 revises the prohibition against a person subject to sex offender registration from taking certain actions for compensation by also prohibiting a person civilly committed as a sexually violent predator from taking those actions for compensation and by including the following among the prohibited actions:

- providing or offering to provide a service at a SAFE-ready facility or another facility that provides forensic medical examinations to sexual assault survivors in accordance with applicable Health and Safety Code provisions;
- providing or offering to provide a service at a sexual assault program;
- providing or offering to provide a service at a family violence center;
- providing or offering to provide a service at any public or private primary or secondary school; or
- providing or offering to provide any coaching, tutoring, or mentoring service to a person younger than 18 years of age.

S.B. 1610 establishes that the duty to register under the sex offender program ends when the person dies if the person has a reportable conviction or adjudication, other than an adjudication of delinquent conduct, for an offense for which the person has been civilly committed as a sexually violent predator, except that the duty for such a person to register ends on the 10th anniversary of the date on which the person is released from civil commitment as a sexually violent predator or of the date on which the court dismisses the criminal proceedings against the person and discharges the person, whichever is later, if the person's duty to register is based on a conviction or an order of deferred adjudication in a cause that was transferred to a district or criminal district court.

These provisions apply to any person who, on or after the bill's effective date, is required to register under the sex offender registration program, regardless of whether the offense or conduct for which the person is required to register occurs before, on, or after the bill's effective date.

Computerized Criminal History System

S.B. 1610 requires information in the computerized criminal history system maintained by DPS, in addition to the information required under applicable statutory provisions, to include any sexually violent predator civil commitment order. The bill requires DPS, as soon as practicable after the bill's effective date, to input such an order for any person who was civilly committed before the bill's effective date.

Remote Proceedings

S.B. 1610 amends the Civil Practice and Remedies Code to revise the authorization for a court to hold a hearing regarding litigation by a civilly committed individual at a facility operated by or under contract with TCCO or to conduct the hearing with video communications technology

that permits the court to see and hear the civilly committed individual and that permits the individual to see and hear the court and any other witness as follows:

- includes the condition that the court may do so without the consent of the individual or the parties;
- clarifies that the authorization applies to proceedings and remote proceedings;
- replaces the requirement for such a hearing conducted by video communications technology to be recorded on videotape or by other electronic means with a requirement for such a remote proceeding to be recorded on videotape or by other electronic means; and
- replaces the provisions establishing that the recording is sufficient to serve as a permanent record of the hearing with a provision establishing that the recording is sufficient to serve as a permanent record of the proceeding.

The bill defines "remote proceeding" as a proceeding in which one or more of the participants, including a judge, civilly committed individual, party, attorney, witness, court reporter, or other individual, attends the proceeding remotely through the use of technology and the Internet, including through video communications technology.

Special Prosecution Unit

S.B. 1610 amends the Government Code to establish that a prosecuting attorney serving on the special prosecution unit has the same authority to represent the state in the prosecution of a criminal offense committed by a person civilly committed as a sexually violent predator, including a violation of a civil commitment requirement, as is conferred on a county attorney, district attorney, or criminal district attorney of a court with jurisdiction of the offense. The bill includes prosecution of such offenses among the general functions of the special prosecution unit.

Texas Civil Commitment Office's Authority

S.B. 1610 entitles TCCO to obtain from DPS criminal history record information that is maintained by DPS and that relates to a person who is civilly committed as a sexually violent predator or was previously civilly committed as a sexually violent predator, and subsequently released by a court order.

S.B. 1610, for purposes of TCCO's adoption of policies to encourage family unity during a civilly committed sex offender's commitment, removes in-person visitation from the types of visitation policies for which TCCO may consider the impact in adopting the policies on a family member's ability to provide support to the offender through ongoing, appropriate contact with the offender while the offender participates in the treatment and supervision program.

S.B. 1610 expressly delegates to TCCO the authority to procure applicable common commodities or services for office use if the total cost of the purchase is less than the total cost of the purchase under the purchasing authority of the comptroller of public accounts or as offered for sale as provided by statutory provisions relating to purchasing from people with disabilities. The bill requires TCCO, in collaboration with the comptroller, to identify best practices for comparing the total costs and documenting cost savings.

Civil Commitment of Sexually Violent Predators

S.B. 1610 amends the Health and Safety Code to establish that a person is a repeat sexually violent offender, for purposes of provisions governing civil commitment of a sexually violent predator, if the person is convicted of continuous sexual abuse of a young child or disabled individual and a sentence is imposed for the offense.

S.B. 1610 provides that the existing condition relating to revocation of a person's parole or mandatory supervision based on the person's failure to adhere to the requirements of sex

offender treatment and supervision, which triggers TDCJ's duty to provide notice to a multidisciplinary team of the anticipated release of the person, is based on the person's failure to adhere to the requirements of sex offender treatment or supervision.

S.B. 1610 makes records of the multidisciplinary team, established by TDCJ to review available records of a person referred to the team under notice of a potential predator, confidential and excepted from disclosure under state public information law.

S.B. 1610 caps the term of contracts for the provision of any necessary supervised housing and other related services and for medical and mental health services and sex offender treatment for civilly committed sexually violent predators at 10 years. The bill authorizes the contract to provide for an unlimited number of renewals each for an additional term capped at 10 years and establishes that these provisions prevail to the extent of a conflict with any other law.

S.B. 1610 requires a committing court to order the payment of reasonable compensation to persons performing a duty or providing a service to a committed person with an intellectual or developmental disability, a mental illness, or a physical disability that prevents the committed person from effectively participating in the sex offender treatment program and requires the compensation paid to be assessed as court costs. The bill requires the Health and Human Services Commission to pay all associated court costs.

S.B. 1610 establishes that a civilly committed sex offender, whether indigent or not, is responsible for the cost of the following:

- repairs to or replacement of property belonging to the state, a contractor of the state or the agent of the contractor, the civil commitment facility, or another civilly committed sex offender, if the offender intentionally, knowingly, recklessly, or negligently caused damage to or the loss of the property; and
- any expenses for medical care provided to the civilly committed sex offender or any other person, if the offender intentionally, knowingly, recklessly, or negligently acted in a manner that caused the injury for which medical care was provided.

The bill requires a civilly committed sex offender to pay to TCCO, at TCCO's direction, any amount for repairs to or replacement of applicable property for which the offender is responsible, as determined by TCCO.

These provisions apply to a civil commitment proceeding that is initiated on or after the bill's effective date, regardless of when the applicable petition for civil commitment was filed.

Immunity and Award of Court Costs and Attorney's Fees for Certain Good Faith Conduct

S.B. 1610 conditions the immunity from liability granted to a person providing, or contracting, appointed, or volunteering to perform a service in good faith under provisions governing civil commitment of sexually violent predators on the person doing so at TCCO's request. The bill requires a court to immediately dismiss any action asserting a claim against a person granted immunity from liability if that claim arose from the person's good faith conduct. The bill expressly provides that provisions granting a person immunity from liability for good faith conduct do not affect a defense, immunity, or jurisdictional bar available to such a person.

S.B. 1610 requires the attorney general to defend in an action any person providing, or contracting, appointed, or volunteering to perform any service at TCCO's request under the following conditions:

- TCCO requests that the attorney general defend the person; and
- the action arises from a service performed at TCCO's request.

The bill establishes that TCCO or the person is not responsible for and prohibits TCCO or the person from paying any costs associated with the assistance. The bill requires the court to do the following in an action against such a person:

- award to the person court costs and attorney's fees incurred in the action if the person is found immune and the person is not represented by the attorney general; and
- award to the attorney general court costs and attorney's fees incurred in the action if the person is found immune.

These provisions apply only to an action filed on or after the bill's effective date. An action filed before that date is governed by the law in effect immediately before the bill's effective date, and that law is continued in effect for that purpose.

Code Update

S.B. 1610 establishes that, to the extent of any conflict, its provisions prevail over another Act of the 89th Legislature, Regular Session, 2025, relating to nonsubstantive additions to and corrections in enacted codes.

Repealed Provision

S.B. 1610 repeals Sections 14A.001(1) and 14A.054(f), Civil Practice and Remedies Code, as added by Chapter 203 (S.B. 1180), Acts of the 88th Legislature, Regular Session, 2023.

EFFECTIVE DATE

September 1, 2025.