

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 912
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Criminal Justice
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Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The 76th Legislature, Regular Session, 1999, enacted S.B. 365 to create a process for the civil commitment of sexually violent predators. The 76th Legislature found that a small but extremely dangerous group of sexually violent predators existed and that those predators have a behavior abnormality that is not amenable to traditional mental illness treatment modalities, which makes the predators likely to engage in repeated predatory acts of sexual violence. The 76th Legislature further found that the existing involuntary commitment provisions of the Health and Safety Code were inadequate to address the risk of repeated predatory behavior that sexually violent predators pose to society, and that treatment modalities for sexually violent predators are different from the traditional treatment modalities for persons appropriate for involuntary commitment. Therefore, the 76th Legislature determined that a civil commitment procedure for the long-term supervision and treatment of sexually violent predators was necessary and in the best interest of the state.

The original civil commitment process has been successful, but the restricted application of the law to a few enumerated offenses has limited its effectiveness by failing to take into consideration sexually violent predators who commit other serious offenses that may be motivated by a sexually violent impulse but do not contain that element in the legal charge or conviction. These sexually violent predators are currently outside the reach of the civil commitment process.

C.S.S.B. 912 expands the scope of the civil commitment process to include as sexually violent predators some inmates who have been convicted of committing or attempting to commit a "sexually motivated" murder or capital murder and at least one other sexually violent offense as described in the chapter.

C.S.S.B. 912 also directs the Council on Sex Offender Treatment to hire employees through the case management system to do GPS (global positioning system) tracking for sexually violent predators residing in Dallas, Tarrant, Harris, Travis, and Bexar counties. The Department of Public Safety will continue to be involved with the preparation of a criminal complaint, warrant, and arrest of a sexually violent predator who violates the order of commitment.

C.S.S.B. 912 provides that the civilly committed can only live in a halfway house approved by the Council on Sex Offender Treatment. Currently law requires the order to state the required residence for the sexually violent predator. However, sometimes a court will allow the sexually violent predator to live in a remote area where there are no feasible resources to manage the predator.

C.S.S.B. 912 requires the suspension of the civil commitment of an offender for the duration of the offender's confinement in either a penal institution, mental health institution, or state school. Texas Civil Commitment is an outpatient program and, therefore, it is important that the commitment will be suspended and the Council on Sex Offender Treatment's duties cease when confinement occurs.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 841.002, Health and Safety Code, to define "sexually motivated conduct" and redefine "sexually violent offense."

SECTION 2. Amends Sections 841.021(a) and (b), Health and Safety Code, as follows:

(a) Requires the Texas Department of Criminal Justice (TDCJ), before the person's anticipated release date, to give to the multidisciplinary team written notice of a person:

(1) who is serving a sentence for a sexually violent offense described by Section 841.002(8)(A), (B), or (C) (definition of "sexually violent offense") or what is, or as described as may be determined to be, a sexually violent offense described by Section 841.022(8)(D) (definition of "sexually violent offense"); and

(2) may be a repeat sexually violent offender.

(b) Makes conforming changes.

SECTION 3. Amends Sections 841.082(a) and (d), Health and Safety Code, as follows:

(a) Sets forth requirements that a judge is required to impose upon a person to ensure compliance with the person's outpatient civil commitment, including requiring the person to reside in a Texas residential facility under contract with the Council on Sex Offender Treatment (council) or at another location or facility approved by the council.

(d) Provides that the court, rather than the judge, retains jurisdictions of the case with respect to a civil commitment proceeding conducted under Subchapters F (Commitment Review) and G (Petition for Release). Deletes existing text requiring a judge to transfer jurisdiction of a case regarding a person's civil commitment to a district court.

SECTION 4. Amends Section 841.083, Health and Safety Code, by amending Subsections (c) and (d) and adding Subsections (c-1) and (c-2), as follows:

(c) Requires the council to enter into appropriate memoranda of understanding, rather than an interagency agreement, with the Texas Department of Public Safety (DPS) for the provision of a tracking service and for assistance in the preparation of criminal complaints, warrants, and related documents and in the apprehension and arrest of a person.

(c-1) Requires the council, notwithstanding Subsection (c) or any other provision of this subchapter, to provide through the case management system any supervision or tracking service required under this chapter for persons residing in Bexar, Dallas, Harris, Tarrant, or Travis County. Requires the council to provide the tracking service under this subsection through the Department of State Health Services (DSHS). Requires any tracking personnel used by DSHS for purposes of this chapter to be approved by the council.

(c-2) Creates subsection from existing text. Requires DPS or the council, as appropriate, if the equipment necessary to implement the tracking service is available through a contract by the Texas Building and Procurement Commission, to acquire equipment through that contract.

(d) Requires the council to enter into appropriate memoranda of understanding, rather than an interagency agreement with TDCJ, for any necessary supervised housing. Requires the council to reimburse the applicable provider, rather than that department, for housing costs under this section. Prohibits the committed person from being housed for any period of time in a mental health facility, state school, or community center, unless the placement results from a commitment of the person to that facility, school, or center by governmental action under another law, including a proceeding initiated under Article

46.03 (Insanity Defense) or Chapter 46B (Incompetency to Stand Trial), Code of Criminal Procedure.

SECTION 5. Amends Sections 841.145(a) and (b), Health and Safety Code, as follows:

(a) Authorizes a person who is examined under this chapter to retain, at the person's own expense, an expert to perform an examination or participate in a civil commitment proceeding on the person's behalf, including a biennial examination or other civil commitment proceeding to assess the person's status as a sexually violent predator.

(b) Includes the requirement of a judge to approve compensation for an expert as appropriate under Subsection (c) (reasonable compensation).

SECTION 6. Amends Section 841.150, Health and Safety Code, as follows:

Sec. 841.150. New heading: EFFECT OF SUBSEQUENT COMMITMENT OR CONFINEMENT ON ORDER OF CIVIL COMMITMENT. (a) Redesignated from text of existing Subsection (b). Provides that the duties, rather than statutory duties, imposed by this chapter are suspended for the duration of any confinement of a person, or any commitment of a person to a community center, mental health facility, or state school, by governmental action under other law, including a proceeding initiated under Article 46.03 or Chapter 46B, Code of Criminal Procedure. Deletes existing text providing that certain convictions, judgments, or verdicts do not affect an order of civil commitment.

(b) Defines "community center," "mental health facility," and "state school."

SECTION 7. Repealer: Sections 841.082(b) (Authorizes a judge to receive assistance from the council in determining a person's outpatient civil commitment residence.) and 841.084 (Status Reports and Other Information), Health and Safety Code.

SECTION 8. Provides that this Act applies to a person serving a sentence in the Texas Department of Criminal Justice or committed to the Texas Department of Mental Health and Mental Retardation for an offense committed before, on, or after the effective date of this Act.

SECTION 9. Effective date: September 1, 2005.