

## BILL ANALYSIS

Senate Research Center

S.B. 746  
By: Whitmire; Perry  
Criminal Justice  
6/5/2015  
Enrolled

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

S.B. 746 as introduced is designed to address the growing crisis of the civil commitment of sexually violent predators program that could result in a major threat to the public safety in Texas. The civil commitment process is designed to provide a safety net for high risk repeat sex offenders who have a legislatively created diagnoses of a brain amorality that could lead to future sex assaults. Horrible mismanagement of the Office of Violent Sex Offender Management (OVSOM) has led to the total replacement of that office's management and restructure of its oversight board. Among the findings by the State Auditor's Office are:

1. OVSOM did not plan for treatment services.
2. OVSOM did not monitor contractor performance.
3. OVSOM has not implemented a budgeting process to identify or plan for services it provides, and it did not ensure that funds would be available to meet its needs.
4. OVSOM did not have adequate controls over access to the system that it uses to manage case managers' caseloads. Auditors identified 14 former employees and contractors who still had access to the case management system, and two of those individuals had administrator access.
5. OVSOM did not have controls over the management of certain contracting processes.
6. By not planning for the transportation services, OVSOM did not develop the contracts properly and was not maximizing its use of state funds.
7. OVSOM did not have policies and procedures addressing conflicts of interest.
8. OVSOM did not have contingency plans if a provider was no longer able to provide housing services.
9. OVSOM had no evidence of its monitoring of the vendors that house sexually violent predators through memorandums of understanding.
10. OVSOM had not implemented certain processes for budgeting, review of expenditures, fee processing, and access to its case management system. Those issues hindered OVSOM's ability to maximize the use of state funds.
11. Auditors tested 115 OVSOM expenditures totaling \$1,110,140. For 45 (39 percent) of those 115 expenditures, OVSOM did not have adequate supporting documentation for the associated services and/or the services provided were not specified on the contract.
12. OVSOM also did not have policies and procedures for its review of expenditures, and it could not specify which staffs were responsible for reviewing invoices from transportation contractors.
13. Auditors could not find evidence that OVSOM used the revenue from the fees it had collected to offset the cost of GPS, as statute requires.

The court that conducts the civil commitment trial is a specialty court, the 435th District Court of Montgomery County, with state employees serving as Special Prosecutors and the Texas Board of Criminal Justice, Office of State Counsel for Offenders as defense attorneys. The court is currently in complete disarray. Public statements by the elected judge from Montgomery County have rendered him ineffective and led to his recusal from hearing cases that he is designated by statute to hear. This is having a negative impact on the entire Second Administrative Judicial Region impacting 35 other counties.

Also, due to the above mismanagement issue, all major vendors who currently house these individuals have notified OVSOM that they will no longer house them after August 2015.

The legislature can fix these problems, wait until the federal courts step in, or abolish the program. Considering that we have over 25,000 sex offenders in prison and approximately 1,800 discharging their sentences each year, and over 380 already civilly committed, a public safety crisis is in our very near future. (Original Author's/Sponsor's Statement of Intent)

S.B. 746 amends current law relating to the civil commitment of sexually violent predators; amends provisions subject to criminal penalties.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Texas Civil Commitment Office is modified in SECTION 26 (Section 841.141), Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 841.002(1), (3), and (4), Health and Safety Code, as follows:

- (1) Redefines "attorney representing the state."
- (3) Redefines "case manager."
- (4) Redefines "office" to mean the Texas Civil Commitment Office, rather than the Office of Violent Sex Offender Management.

SECTION 2. Amends Section 841.003(b), Health and Safety Code, as follows:

(b) Provides that a person is a repeat sexually violent offender for the purposes of this chapter if the person is convicted of more than one sexually violent offense and a sentence is imposed for at least one of the offenses or if:

- (1) the person:
  - (A) is convicted of a sexually violent offense, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the person was subsequently discharged from community supervision;
  - (B) enters a plea of guilty or nolo contendere for a sexually violent offense in return for a grant of deferred adjudication; or
  - (C) is adjudicated by a juvenile court as having engaged in delinquent conduct constituting a sexually violent offense and is committed to the Texas Juvenile Justice Department (TJJD) under Section 54.04(d)(3) or (m), Family Code; and

(2) after the date on which under Subdivision (1) the person is convicted, receives a grant of deferred adjudication, or is adjudicated by a juvenile court as having engaged in delinquent conduct, the person commits a sexually violent offense for which the person is convicted, but only if the sentence for the offense is imposed.

Deletes existing designations of Subdivisions (1)(D), (2)(A), and (2)(B). Deletes references to is adjudged not guilty by reason of insanity. Deletes a reference to is adjudged not guilty by reason of insanity of a sexually violent offense.

SECTION 3. Amends Section 841.007, Health and Safety Code, as follows:

Sec. 841.007. New heading: DUTIES OF TEXAS CIVIL COMMITMENT OFFICE. Provides that the Texas Civil Commitment Office (office), rather than the Office of Violent Sex Offender Management, is responsible for providing appropriate and necessary treatment and supervision for committed persons through the case management

system, and developing and implementing a sex offender treatment program for persons committed under this chapter.

SECTION 4. Amends Section 841.021, Health and Safety Code, by amending Subsections (a) and (c) and adding Subsections (a-1) and (d), as follows:

(a) Requires the Texas Department of Criminal Justice (TDCJ), subject to Subsection (a-1) and except as provided by Subsection (d), before the person's anticipated release date, to give to the multidisciplinary team established under Section 841.022 (Multidisciplinary Team) written notice of the anticipated release of a person who meets certain requirements as set forth.

(a-1) Authorizes TDCJ, regardless of whether any exigent circumstances are present, to give notice under this section with respect to a person who is scheduled to be released on parole or to mandatory supervision only if the person's anticipated release date is not later than 24 months after the date on which the notice will be given. Prohibits TDCJ from giving notice with respect to a person who is currently released on parole or to mandatory supervision, but provides that the multidisciplinary team may perform the functions described by Section 841.022(c) within the applicable period required by that subsection if the written notice required by this section was received by the team before the date of the person's release.

(c) Requires TDCJ to give the notice described by Subsection (a) not later than the first day of the 24th month before the person's anticipated release date, but provides that, under exigent circumstances, TDCJ may give the notice at any time before that date, except as provided by Subsection (a-1). Deletes existing text requiring TDCJ or the Department of State Health Services (DSHS), as appropriate, to give the notice described by Subsection (a) or (b) not later than the first day of the 16th month before the person's anticipated release or discharge date, but under exigent circumstances may give the notice at any time before the anticipated release or discharge date. Makes conforming changes.

(d) Prohibits TDCJ from providing notice under Subsection (a) of the anticipated release date of a person for whom TDCJ has previously provided notice under this section and who has been previously recommended for an assessment under Section 841.022 unless, after the recommendation for assessment was made:

(1) the person is convicted of a new sexually violent offense; or

(2) the person's parole or mandatory supervision is revoked based on the commission of a new sexually violent offense, failure to adhere to the requirements of sex offender treatment and supervision, or failure to register as a sex offender.

SECTION 5. Amends Section 841.022, Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, by amending Subsections (a) and (c) and adding Subsection (a-1), as follows:

(a) Requires the executive director of TDCJ, rather than the executive director of TDCJ and the commissioner of state health services jointly, to establish a multidisciplinary team to review available records of a person referred to the team under Section 841.021. Requires the team to include:

(1) a mental health professional, rather than one person, from DSHS;

(2) two persons from TDCJ as follows:

(A) one person from the victim services division; and

(B) one person from the sex offender rehabilitation program in the rehabilitation programs division;

(3) a licensed peace officer who is employed by Department of Public Safety of the State of Texas (DPS) and who has at least five years' experience working for DPS or the officer's designee;

(4) two persons from the office; and

(5) a licensed sex offender treatment provider, rather than one person, from the Council on Sex Offender Treatment.

Makes nonsubstantive changes.

(a-1) Requires TDCJ, in consultation with the office, to provide training to the members of the multidisciplinary team regarding the civil commitment program under this chapter, including training regarding eligibility criteria for commitment, the process for evaluating persons for commitment, and the sex offender treatment program for persons committed under this chapter.

(c) Makes conforming changes.

SECTION 6. Amends Section 841.023, Health and Safety Code, as follows:

Sec. 841.023. ASSESSMENT FOR BEHAVIORAL ABNORMALITY. (a) Requires TDCJ (department), not later than the 60th day after the date of a recommendation under Section 841.022(c), to assess whether the person suffers from a behavioral abnormality that makes the person likely to engage in a predatory act of sexual violence. Requires the department, rather than the department required to make the assessment, to aid in the assessment, to use an expert to examine the person. Authorizes the department to contract for the expert services required by this subsection. Requires the expert to make a clinical assessment based on testing for psychopathy, a clinical interview, and other appropriate assessments and techniques to aid TDCJ in its assessment. Deletes references to DSHS.

(b) Requires the department, if as a result of the assessment the department believes that the person suffers from a behavioral abnormality, not later than the 60th day after the date of a recommendation under Section 841.022(c), to give notice of that assessment and provide corresponding documentation to the attorney representing the state for the county in which the person was most recently convicted of a sexually violent offense. Deletes existing text requiring the department making the assessment, if as a result of the assessment TDCJ or DSHS believes that the person suffers from a behavioral abnormality, to give notice of that assessment and provide corresponding documentation to the attorney representing the state not later than the 60th day after the date of a recommendation under Section 841.022(c).

SECTION 7. Amends Section 841.041(a), Health and Safety Code, as follows:

(a) Authorizes an attorney, if a person is referred to the attorney representing the state under Section 841.023 (Assessment for Behavioral Abnormality), to file, in the court of conviction for the person's most recent sexually violent offense, rather than in a Montgomery County district court other than a family district court, a petition alleging that the person is a sexually violent predator and stating facts sufficient to support the allegation.

SECTION 8. Amends Subchapter C, Chapter 841, Health and Safety Code, by adding Section 841.042, as follows:

Sec. 841.042. ASSISTANCE FROM SPECIAL PROSECUTION UNIT. Requires the special prosecution unit, on request of the attorney representing the state, to provide legal,

financial, and technical assistance to the attorney for a civil commitment proceeding conducted under this chapter.

SECTION 9. Amends Section 841.061(a), Health and Safety Code, as follows:

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

(1) not later than the 270th day after the date a petition is served on the person under Section 841.041; and

(2) not later than the person's sentence discharge date.

Makes a nonsubstantive change.

SECTION 10. Amends Section 841.063, Health and Safety Code, as follows:

Sec. 841.063. CONTINUANCE. (a) Authorizes the judge, except as provided by Subsection (b), to continue a trial or hearing conducted under this chapter if the person is not substantially prejudiced by the continuance and:

(1) on the request of either party and a showing of good cause; or

(2) on the judge's own motion in the due administration of justice.

(b) Prohibits the judge from continuing a trial conducted under this chapter to a date occurring later than the person's sentence discharge date.

Makes a nonsubstantive change.

SECTION 11. Amends Subchapter D, Chapter 841, Health and Safety Code, by adding Section 841.065, as follows:

Sec. 841.065. AGREED ORDER. Requires an agreed order of civil commitment to require the person to submit to the treatment and supervision administered by the office.

SECTION 12. Amends Section 841.081, Health and Safety Code, to change references to outpatient treatment to treatment, to change references to case manager to office, and to delete a reference to discharge from a state hospital.

SECTION 13. Amends Sections 841.082(a) and (b), Health and Safety Code, as follows:

(a) Changes a reference to a person's outpatient civil commitment to a person's civil commitment. Requires the requirements necessary to ensure the person's compliance with treatment and supervision and to protect the community to include:

(1) requiring the person to reside where instructed by the office, rather than requiring the person to reside in a Texas residential facility under contract with the office or at another location or facility approved by the office;

(2) prohibiting the person's contact with a victim, rather than with a victim or potential victim, of the person;

(3) requiring the person's participation in and compliance with the sex offender treatment program, rather than with a specific course of treatment, provided by the office and compliance with all written requirements imposed by the office, rather than imposed by the case manager or otherwise by the office;

(4) requiring the person to submit to tracking under a particular type of tracking service and to any other appropriate supervision, and refrain from tampering with, altering, modifying, obstructing, or manipulating the tracking equipment; and

(5) prohibiting the person from leaving the state without prior authorization from the office, rather than prohibiting the person from changing the person's residence without prior authorization from the judge and from leaving the state without that prior authorization.

Deletes existing text of Subdivision (3) including prohibiting the person's possession or use of alcohol, inhalants, or a controlled substance in the necessary requirements.

Deletes existing Subdivision (7) including that if determined appropriate by the judge, establishing a child safety zone in the same manner as a child safety zone is established by a judge under Section 13B (Defendants Placed on Community Supervision for Sexual Offenses Against Children), Article 42.12, Code of Criminal Procedure, and requiring the person to comply with requirements related to the safety zone in the necessary requirements.

Deletes existing Subdivision (8) including any other requirements determined necessary by the judge in the necessary requirements.

(b) Requires that a tracking service to which a person is required to submit under Subsection (a)(4), rather than under Subsection (a)(5):

(1) track the person's location in real time;

(2) be able to provide a real-time report of the person's location to the office on request, rather than to the case manager at the case manager's request; and

(3) periodically provide a cumulative report of the person's location to the office, rather than to the case manager.

SECTION 14. Amends Subchapter E, Chapter 841, Health and Safety Code, by adding Sections 841.0821 and 841.0822, as follows:

Sec. 841.0821. **SEX OFFENDER TREATMENT BEFORE RELEASE FROM SECURE CORRECTIONAL FACILITY.** (a) Requires TDCJ to prioritize enrolling in a sex offender treatment program established by TDCJ any committed person who has not yet been released by TDCJ.

(b) Requires TDCJ and the office to adopt a memorandum of understanding that establishes their respective responsibilities to institute a continuity of care for committed persons enrolled in a sex offender treatment program established by TDCJ.

Sec. 841.0822. **REQUIRED PROCEDURES BEFORE RELEASE FROM SECURE CORRECTIONAL FACILITY.** Requires TDCJ, before a committed person is released from a secure correctional facility, to ensure that:

(1) DPS issues a personal identification card to the person; and

(2) the person completes an application for the following federal benefits, as appropriate, for which the person may be eligible:

(A) social security benefits, including disability benefits, administered by the United States Social Security Administration; and

(B) veterans benefits administered by the United States Department of Veterans Affairs.

SECTION 15. Amends Section 841.083, Health and Safety Code, as follows:

Sec. 841.083. TREATMENT; SUPERVISION. (a) Requires the office to determine the conditions of supervision and treatment of a committed person, rather than requires the office to approve and contract for the provision of a treatment plan for the committed person to be developed by the treatment provider. Deletes existing text authorizing a treatment plan to include the monitoring of the person with a polygraph or plethysmograph. Deletes existing text authorizing the treatment provider to receive annual compensation in an amount not to exceed \$10,000 for providing the required treatment.

(b) Requires the office, rather than the case manager, to provide supervision to the person. Requires the provision of supervision to include a tracking service and, if determined necessary by the office, rather than if required by court order, supervised housing.

(c) Changes a reference to DPS to TDCJ.

(d) Requires the office to enter into appropriate contracts, rather than memoranda of understanding, for the provision of any necessary supervised housing and other related services and provides that the office may enter into appropriate contracts for medical and mental health services and sex offender treatment. Deletes existing text requiring the office to reimburse the applicable provider for housing costs under this section.

(e) Requires the case manager to:

(1) coordinate the treatment, rather than outpatient treatment, and supervision required by this chapter, including performing a periodic assessment of the success of that treatment and supervision; and

(2) provide a report to the office, semiannually or more frequently as necessary, which is required to include any known change in the person's status that affects proper treatment and supervision.

Deletes existing text providing that the report is required to include any recommendations made to the judge.

Deletes existing Subdivision (2) text requiring the case manager to make timely recommendations to the judge on whether to allow the committed person to change residence or to leave the state and on any other appropriate matters. Makes nonsubstantive changes.

SECTION 16. Amends Subchapter E, Chapter 841, Health and Safety Code, by adding Sections 841.0831, 841.0832, 841.0833, 841.0834, 841.0835, and 841.0836, as follows:

Sec. 841.0831. TIERED PROGRAM. (a) Requires the office to develop a tiered program for the supervision and treatment of a committed person.

(b) Requires that the tiered program provide for the seamless transition of a committed person from a total confinement facility to less restrictive housing and supervision and eventually to release from civil commitment, based on the person's behavior and progress in treatment.

Sec. 841.0832. HOUSING FACILITIES. (a) Requires the office to operate, or contract with a vendor to operate, one or more facilities provided for the purpose of housing committed persons.

(b) Requires the office to designate a facility under Subsection (a) to serve as an intake and orientation facility for committed persons on release from a secure correctional facility.

Sec. 841.0833. SECURITY AND MONITORING. Requires the office to develop procedures for the security and monitoring of committed persons in each programming tier.

Sec. 841.0834. MOVEMENT BETWEEN PROGRAMMING TIERS. (a) Requires the office to transfer a committed person to less restrictive housing and supervision if the transfer is in the best interests of the person and conditions can be imposed that adequately protect the community.

(b) Authorizes a committed person to file a petition with the court for transfer to less restrictive housing and supervision without the office's approval. Requires the court to grant the transfer if the court determines that the transfer is in the best interests of the person and conditions can be imposed that adequately protect the community.

(c) Requires the office to return a committed person who has been transferred to less restrictive housing and supervision to a more restrictive setting if the office considers the transfer necessary to further treatment and to protect the community. Requires that the decision to transfer the person be based on the person's behavior or progress in treatment.

(d) Entitles a committed person returned to a more restrictive setting under Subsection (c) to file a petition with the court seeking review of the office's determination. Requires the court to order the office to transfer the person to less restrictive housing and supervision only if the court determines that the office's determination was not made in accordance with Subsection (c).

Sec. 841.0835. COMMITTED PERSONS WITH SPECIAL NEEDS. Requires the Health and Human Services Commission (HHSC) to coordinate with the office to provide psychiatric services, disability services, and housing for a committed person with an intellectual or developmental disability, a mental illness, or a physical disability that prevents the person from effectively participating in the sex offender treatment program administered by the office.

Sec. 841.0836. RELEASE FROM HOUSING. Requires a committed person released from housing operated by or under contract with the office to be released to the county in which the person was most recently convicted of a sexually violent offense.

SECTION 17. Amends Section 841.084, Health and Safety Code, as follows:

Sec. 841.084. New heading: PAYMENT OF COSTS BY COMMITTED PERSON. (a) Creates this subsection from existing text. Provides that, notwithstanding Section 841.146(c), a civilly committed person who is not indigent:

(1) is responsible for the cost of:

(A) housing and treatment provided under this chapter; and

(B) the tracking service required by Section 841.082 (Commitment Requirements); and

(2) monthly is required to pay to the office the amount that the office determines will be necessary to defray the cost of providing the housing, treatment, and service with respect to the person, rather than to defray the cost of operating the service with respect to the person during the



subsequent month. Deletes existing text requiring the office to immediately transfer the money to the appropriate service provider.

(b) Requires that money collected under this section be deposited to the credit of the account from which the costs were originally paid.

SECTION 18. Amends Subchapter E, Chapter 841, Health and Safety Code, by adding Section 841.0845, as follows:

Sec. 841.0845. NOTICE OF INTENT REGARDING NEW RESIDENCE OR FACILITY. (a) Requires the office to provide advance notice of any intent to house one or more committed persons at a new residence or facility that has not previously served as housing for committed persons under this chapter.

(b) Requires a vendor to advance notice of any intent to submit a proposal to the office for the construction or renovation of a residence or facility that will serve as a new location for housing committed persons under this chapter.

(c) Requires that notice be provided in writing to each member of the legislature who represents a district containing territory in the affected county as follows:

(1) by a vendor, not later than the 30th day before the date that the vendor will submit a proposal described by Subsection (b) to the office; and

(2) by the office:

(A) as soon as practicable after awarding a contract for the construction or renovation of a residence or facility that will serve as a new location for housing committed persons under this chapter; or

(B) if a construction or renovation contract is unnecessary for the purpose, not later than the 30th day before the date that the residence or facility will first be used as housing for committed persons under this chapter, except as provided by Subsection (d).

(d) Authorizes the office to provide notice required by Subsection (c)(2)(B) not later than 72 hours before transferring a committed person to the residence or facility if the transfer is necessary due to:

(1) a medical emergency;

(2) a serious behavioral or health and safety issue; or

(3) release from a secure correctional facility.

SECTION 19. Amends Section 841.085(a), Health and Safety Code, to provide that a person commits an offense if, after having been adjudicated and civilly committed as a sexually violent predator under this chapter, the person violates a civil commitment requirement imposed under Section 841.082(a)(1) (requiring a person who will begin an outpatient civil commitment to reside in a Texas residential facility under contract with the office or at another location or facility approved by the office), (2) (prohibiting a person who will begin an outpatient civil commitment from contacting a victim or potential victim of the person), (4) (requiring the participation in and compliance with a specific course of treatment provided by the office and compliance with all written requirements imposed by the case manager or otherwise by the office by a person who will begin an outpatient civil commitment), or (5) (requiring a person who will begin an outpatient civil commitment to submit to tracking under a particular type of tracking service and to any other appropriate supervision, and refrain from tampering with, altering, modifying, obstructing, or manipulating with tracking equipment), rather than under Section 841.082.

SECTION 20. Amends Section 841.101(b), Health and Safety Code, as follows:

(b) Requires the office, rather than the case manager, in preparation for a judicial review under Section 841.102, to provide a report of the biennial examination to the judge and to the person. Deletes existing text requiring the case manager to provide a copy of the report to the office.

SECTION 21. Amends Section 841.102(a), Health and Safety Code, to require the judge, not later than the 60th day after the date of receipt of the report submitted under Section 841.101 (Biennial Examination), to conduct a biennial review of the status of the committed person and issue an order concluding the review or setting a hearing under Subsection (c).

SECTION 22. Amends Section 841.121(a), Health and Safety Code, to change references to case manager to office.

SECTION 23. Amends Section 841.122, Health and Safety Code, to change references to case manager to office.

SECTION 24. Amends Sections 841.123(a), (b), and (c), Health and Safety Code, as follows:

(a) Changes a reference to the case manager's authorization to the office's authorization.

(b) Requires the judge to review and issue a ruling on a petition for release filed by the committed person without the office's authorization not later than the 60th day after the date of filing of the petition, rather than on receipt of a petition. Deletes existing text requiring the judge to attempt as soon as practicable to review the petition. Makes a conforming change.

(c) Makes conforming changes.

SECTION 25. Amends Section 841.124(a), Health and Safety Code, to require the judge to conduct a hearing on the petition not later than the 60th day after the date of filing of the petition if as authorized by Section 841.123 the judge does not deny a petition for release filed by the committed person without the office's, rather than the case manager's, authorization. Deletes existing text requiring the hearing to be conducted as soon as practicable.

SECTION 26. Amends Section 841.141(b), Health and Safety Code, to require the office to adopt rules to develop standards of care and case management for persons committed under this chapter, determine the conditions of supervision and treatment of a committed person, and develop and implement the tiered program described by Section 841.0831, including rules regarding a committed person's transition between programming tiers. Makes a nonsubstantive change.

SECTION 27. Amends Sections 841.142(b), (c), and (d), Health and Safety Code, as follows:

(b) Changes a reference to case manager to office.

(c) Requires TDCJ, the office, a service provider contracting with one of those agencies, the multidisciplinary team, and the applicable attorney representing the state, on the written request of any attorney for another state or for a political subdivision in another state, to release to the attorney any available information relating to a person that is sought in connection with an attempt to civilly commit the person as a sexually violent predator in another state.

(d) Authorizes TDCJ, the office, a service provider contracting with one of those agencies, the multidisciplinary team, and the applicable attorney representing the state to exchange any available information relating to the person to protect the public and to enable an assessment or determination relating to whether a person is a sexually violent

predator or to enable the provision of supervision and treatment to a person who is a sexually violent predator.

SECTION 28. Amends Section 841.146(c), Health and Safety Code, to change a reference to outpatient treatment to treatment.

SECTION 29. Amends Section 841.147, Health and Safety Code, as follows:

Sec. 841.147. IMMUNITY. Provides that the following persons are immune from liability for good faith conduct under this chapter:

- (1) an employee or officer of TDCJ or the office, rather than an employee or officer of TDCJ, DSHS, the Department of Aging and Disability Services, or the office;
- (2) Makes no change to this subdivision;
- (3) the applicable attorney representing the state and an employee of the attorney, rather than an employee of the civil division of the special prosecution unit charged with initiating and pursuing civil commitment proceedings under this chapter; and
- (4) Makes no change to this subdivision.

SECTION 30. Amends Section 841.150, Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 841.150. New heading: EFFECT OF SUBSEQUENT DETENTION, CONFINEMENT, OR COMMITMENT ON ORDER OF CIVIL COMMITMENT. (a) Provides that the duties imposed on the office and the judge by this chapter are suspended for the duration of a detention or confinement of a committed person in a correctional facility, secure correctional facility, or secure detention facility, or if applicable any other commitment of the person to a community center, mental health facility, or state supported living center, by governmental action. Makes nonsubstantive changes.

(b) Defines "correctional facility," "secure correctional facility," and "secure detention facility" in this section. Renumbers existing subdivisions accordingly.

SECTION 31. Amends Sections 841.151(b) and (c), Health and Safety Code, to change a reference to Section 841.082 to Section 841.082(a)(1), (2), (4), or (5), and to include the office as an entity required to be notified in writing by the facility of the anticipated date and time of the release of a person who was civilly committed under this chapter as a sexually violent predator.

SECTION 32. Amends Article 13.315, Code of Criminal Procedure, as follows:

Art. 13.315. FAILURE TO COMPLY WITH SEXUALLY VIOLENT PREDATOR CIVIL COMMITMENT REQUIREMENT. Authorizes an offense under Section 841.085 (Criminal Penalty; Prosecution of Offense), Health and Safety Code, to be prosecuted in the county in which any element of the offense occurs or in the court that retains jurisdiction over the civil commitment proceeding under Section 841.082, Health and Safety Code, rather than authorizes an offense under Section 841.085, Health and Safety Code, to be prosecuted in the county in which any element of the offense occurs or in Montgomery County.

SECTION 33. Amends Section 24.579(c), Government Code, as follows:

(c) Requires the state, notwithstanding any other law and only to the extent that the duties of those individuals relate to civil commitment proceedings under Chapter 841 (Civil Commitment of Sexually Violent Predators), Health and Safety Code, or to criminal cases involving offenses under Section 841.085, Health and Safety Code, and Article

62.203 (Failure to Comply: Individuals Subject to Commitment), Code of Criminal Procedure, to pay the salaries of and other expenses related to the court reporter appointed for the 435th District Court under Section 52.041 (Appointment of Official Court Reporter) and the court coordinator appointed for the court under Section 74.101 (Court Coordinators).

SECTION 34. Amends Section 411.1389, Government Code, as follows:

Sec. 411.1389. New heading: ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS CIVIL COMMITMENT OFFICE. (a) Entitles the Texas Civil Commitment Office, rather than the Office of Violent Sex Offender Management, to obtain from the DPS criminal history record information that is maintained by DPS and that relates to a person who has applied with the office to be an employee of the office, or a contracted service provider with the office.

(b)-(c) Makes conforming changes.

SECTION 35. Amends the heading to Chapter 420A, Government Code, to read as follows:

#### CHAPTER 420A. TEXAS CIVIL COMMITMENT OFFICE

SECTION 36. Amends Section 420A.001, Government Code, as follows:

Sec. 420A.001. DEFINITIONS. Redefines "board" and "office" to incorporate conforming changes.

SECTION 37. Amends Sections 420A.002(a), (b), and (c), Government Code, as follows:

(a) Makes a conforming change.

(b) Provides that the office is governed by a board composed of five, rather than three, members, appointed by the governor, including one member experienced in the management of sex offenders, one member experienced in the investigation or prosecution of sex offenses, and one member experienced in counseling or advocating on behalf of victims of sexual assault.

(c) Provides that members of the governing board of the office serve staggered two-year terms. Provides that three, rather than two, members' terms expire February 1 of each even-numbered year and two members' terms expire, rather than one member's term expires, February 1 of each odd-numbered year.

SECTION 38. Amends Section 420A.004, Government Code, to provide that the Texas Civil Commitment Office, rather than the Office of Violent Sex Offender Management, is subject to Chapter 325 (Texas Sunset Act), Government Code.

SECTION 39. Repealer: Section 24.579(b) (requiring the 435th District Court to give preference to civil commitment proceedings, criminal cases involving certain offenses, and matters assigned by the administrative judge), Government Code.

Repealer: Section 841.004 (Special Prosecution Unit), Health and Safety Code.

Repealer: Section 841.021(b) (requiring DSHS, before the person's anticipated discharge date, to give to the multidisciplinary team established under Section 841.022 written notice of the anticipated discharge of a person who is committed to DSHS after having been adjudged not guilty by reason of insanity of a sexually violent offense described by Section 841.002(8)(A), (B), or (C), or what is, or as described by this chapter what DSHS reasonably believes may be determined to be, a sexually violent offense described by Section 841.002(8)(D), and may be a repeat sexually violent offender), Health and Safety Code.

Repealer: Section 841.085(c) (authorizing an attorney employed by the civil division of the special prosecution unit described by Section 841.004, at the request of the local prosecuting attorney, to assist in the trial of an offense under this section), Health and Safety Code.

SECTION 40. (a) Provides that, except as provided by Subsection (a-1) of this section, the changes in law made by this Act to Chapter 841, Health and Safety Code, apply to a civil commitment proceeding under that chapter that is initiated on or after the effective date of this Act, regardless of when the applicable petition for civil commitment was filed. Makes a nonsubstantive change.

(a-1) Provides that the jurisdiction of a district court, the representation of the state by the civil division of the special prosecution unit, and the representation of a respondent by the Office of State Counsel for Offenders or other court-appointed counsel in any civil commitment trial, any review of a petition for release, or any biennial review under Chapter 841, Health and Safety Code, that is pending on the effective date of this Act remain unaffected by this Act until the conclusion of that proceeding.

(b) Requires the applicable court with jurisdiction over the committed person, if a civil commitment requirement imposed under Chapter 841, Health and Safety Code, before the effective date of this Act differs from any of the civil commitment requirements listed in Section 841.082, Health and Safety Code, as amended by this Act, to, after notice and hearing, modify the requirement imposed as applicable to conform to that section.

SECTION 41. Provides that the change in law made by this Act in amending Section 841.085, Health and Safety Code, applies to an offense committed before, on, or after the effective date of this Act, except that a final conviction for an offense under that section that exists on the effective date of this Act remains unaffected by this Act.

SECTION 42. Requires the governor, as soon as practicable after the effective date of this Act, to appoint the additional members to the governing board of the Texas Civil Commitment Office, as required by Section 420A.002, Government Code, as amended by this Act. Requires the governor, in making those appointments, to appoint one member to a term expiring February 1, 2016, and one member to a term expiring February 1, 2017.

SECTION 43. Provides that to the extent of any conflict, this Act prevails over another Act of the 84th Legislature, Regular Session, 2015, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 44. Effective date: upon passage or September 1, 2015.