

HEALTH AND SAFETY CODE CHAPTER 841. CIVIL COMMITMENT OF SEXUALLY
VIOLENT PREDATORS

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TITLE 11. CIVIL COMMITMENT OF SEXUALLY VIOLENT PREDATORS

CHAPTER 841. CIVIL COMMITMENT OF SEXUALLY VIOLENT PREDATORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 841.001. LEGISLATIVE FINDINGS. The legislature finds that a small but extremely dangerous group of sexually violent predators exists and that those predators have a behavioral abnormality that is not amenable to traditional mental illness treatment modalities and that makes the predators likely to engage in repeated predatory acts of sexual violence. The legislature finds that the existing involuntary commitment provisions of Subtitle C, Title 7, are inadequate to address the risk of repeated predatory behavior that sexually violent predators pose to society. The legislature further finds that treatment modalities for sexually violent predators are different from the traditional treatment modalities for persons appropriate for involuntary commitment under Subtitle C, Title 7. Thus, the legislature finds that a civil commitment procedure for the long-term supervision and treatment of sexually violent predators is necessary and in the interest of the state.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999.

Sec. 841.002. DEFINITIONS. In this chapter:

(1) "Attorney representing the state" means an attorney employed by the civil division of the special prosecution unit to initiate and pursue a civil commitment proceeding under this chapter.

(2) "Behavioral abnormality" means a congenital or acquired condition that, by affecting a person's emotional or volitional capacity, predisposes the person to commit a sexually violent offense, to the extent that the person becomes a menace to the health and safety of another person.

(3) "Case manager" means a person employed by or under

contract with the council to perform duties related to outpatient treatment and supervision of a person committed under this chapter.

(3-a) "Civil commitment proceeding" means a trial or hearing conducted under Subchapter D, F, or G.

(4) "Council" means the Council on Sex Offender Treatment.

(5) "Predatory act" means an act directed toward individuals, including family members, for the primary purpose of victimization.

(6) "Repeat sexually violent offender" has the meaning assigned by Section 841.003.

(7) "Secure correctional facility" means a county jail or a confinement facility operated by or under contract with any division of the Texas Department of Criminal Justice.

(7-a) "Sexually motivated conduct" means any conduct involving the intent to arouse or gratify the sexual desire of any person immediately before, during, or immediately after the commission of an offense.

(8) "Sexually violent offense" means:

(A) an offense under Section 21.02, 21.11(a)(1), 22.011, or 22.021, Penal Code;

(B) an offense under Section 20.04(a)(4), Penal Code, if the person committed the offense with the intent to violate or abuse the victim sexually;

(C) an offense under Section 30.02, Penal Code, if the offense is punishable under Subsection (d) of that section and the person committed the offense with the intent to commit an offense listed in Paragraph (A) or (B);

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

(E) an attempt, conspiracy, or solicitation, as defined by Chapter 15, Penal Code, to commit an offense listed in

Paragraph (A), (B), (C), or (D);

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

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

(9) "Sexually violent predator" has the meaning assigned by Section 841.003.

(10) "Tracking service" means an electronic monitoring service, global positioning satellite service, or other appropriate technological service that is designed to track a person's location.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 347, Sec. 16, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 849, Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 593, Sec. 3.45, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1219, Sec. 5, eff. September 1, 2007.

Sec. 841.003. SEXUALLY VIOLENT PREDATOR. (a) A person is a sexually violent predator for the purposes of this chapter if the person:

(1) is a repeat sexually violent offender; and

(2) suffers from a behavioral abnormality that makes the person likely to engage in a predatory act of sexual violence.

(b) 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;

(C) is adjudged not guilty by reason of insanity of a sexually violent offense; or

(D) is adjudicated by a juvenile court as having engaged in delinquent conduct constituting a sexually violent offense and is committed to the Texas Youth Commission 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, is adjudged not guilty by reason of insanity, or is adjudicated by a juvenile court as having engaged in delinquent conduct, the person commits a sexually violent offense for which the person:

(A) is convicted, but only if the sentence for the offense is imposed; or

(B) is adjudged not guilty by reason of insanity.
Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999.

Sec. 841.004. SPECIAL PROSECUTION UNIT. The civil division of the special prosecution unit, separate from that part of the unit responsible for prosecuting criminal cases, is responsible for initiating and pursuing a civil commitment proceeding under this chapter.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1219, Sec. 6, eff. September 1, 2007.

Sec. 841.005. OFFICE OF STATE COUNSEL FOR OFFENDERS.
(a) Except as provided by Subsection (b), the Office of State Counsel for Offenders shall represent an indigent person subject to a civil commitment proceeding under this chapter.

(b) If for any reason the Office of State Counsel for Offenders is unable to represent an indigent person described by Subsection (a) at a civil commitment proceeding under this chapter, the court shall appoint other counsel to represent the indigent person.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 347, Sec. 17, eff. Sept. 1, 2003.

Sec. 841.006. APPLICATION OF CHAPTER. This chapter does not:

(1) prohibit a person committed under this chapter from filing at any time a petition for release under this chapter; or

(2) create for the committed person a cause of action against another person for failure to give notice within a period required by Subchapter B, C, or D.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 347, Sec. 17, eff. Sept. 1, 2003.

Sec. 841.007. DUTIES OF COUNCIL ON SEX OFFENDER TREATMENT. The Council on Sex Offender Treatment is responsible for providing appropriate and necessary treatment and supervision through the case management system.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 347, Sec. 17, eff. Sept. 1, 2003.

SUBCHAPTER B. NOTICE OF POTENTIAL PREDATOR; INITIAL DETERMINATIONS

Sec. 841.021. NOTICE OF POTENTIAL PREDATOR. (a) Before the person's anticipated release date, the Texas Department of Criminal Justice shall give to the multidisciplinary team established under Section 841.022 written notice of the anticipated release of a person who:

(1) is serving a sentence for:

(A) a sexually violent offense described by

Section 841.002(8)(A), (B), or (C); or

(B) what is, or as described by this chapter what the department reasonably believes may be determined to be, a sexually violent offense described by Section 841.002(8)(D); and

(2) may be a repeat sexually violent offender.

(b) Before the person's anticipated discharge date, the Texas Department of Mental Health and Mental Retardation shall give to the multidisciplinary team established under Section 841.022 written notice of the anticipated discharge of a person who:

(1) is committed to the department after having been adjudged not guilty by reason of insanity of:

(A) a sexually violent offense described by Section 841.002(8)(A), (B), or (C); or

(B) what is, or as described by this chapter what the department reasonably believes may be determined to be, a sexually violent offense described by Section 841.002(8)(D); and

(2) may be a repeat sexually violent offender.

(c) The Texas Department of Criminal Justice or the Texas Department of Mental Health and Mental Retardation, as appropriate, shall 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. The notice must contain the following information:

(1) the person's name, identifying factors, anticipated residence after release or discharge, and criminal history;

(2) documentation of the person's institutional adjustment and actual treatment; and

(3) an assessment of the likelihood that the person will commit a sexually violent offense after release or discharge.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 849, Sec. 2, eff. September 1, 2005.

Sec. 841.022. MULTIDISCIPLINARY TEAM. (a) The executive

director of the Texas Department of Criminal Justice and the commissioner of the Texas Department of Mental Health and Mental Retardation jointly shall establish a multidisciplinary team to review available records of a person referred to the team under Section 841.021. The team must include:

(1) two persons from the Texas Department of Mental Health and Mental Retardation;

(2) two persons from the Texas Department of Criminal Justice, one of whom must be from the victim services office of that department;

(3) one person from the Texas Department of Public Safety; and

(4) two persons from the council or council personnel.

(b) The multidisciplinary team may request the assistance of other persons in making an assessment under this section.

(c) Not later than the 60th day after the date the multidisciplinary team receives notice under Section 841.021(a) or (b), the team shall:

(1) assess whether the person is a repeat sexually violent offender and whether the person is likely to commit a sexually violent offense after release or discharge;

(2) give notice of that assessment to the Texas Department of Criminal Justice or the Texas Department of Mental Health and Mental Retardation, as appropriate; and

(3) recommend the assessment of the person for a behavioral abnormality, as appropriate.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 347, Sec. 18, eff. Sept. 1, 2003.

Sec. 841.023. ASSESSMENT FOR BEHAVIORAL ABNORMALITY.

(a) Not later than the 60th day after the date of a recommendation under Section 841.022(c), the Texas Department of Criminal Justice or the Texas Department of Mental Health and Mental Retardation, as appropriate, shall assess whether the person suffers from a behavioral abnormality that makes the person likely to engage in a predatory act of sexual violence. To aid in the assessment, the

department required to make the assessment shall use an expert to examine the person. That department may contract for the expert services required by this subsection. The expert shall make a clinical assessment based on testing for psychopathy, a clinical interview, and other appropriate assessments and techniques to aid the department in its assessment.

(b) If as a result of the assessment the Texas Department of Criminal Justice or the Texas Department of Mental Health and Mental Retardation believes that the person suffers from a behavioral abnormality, the department making the assessment shall 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).

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 347, Sec. 19, eff. Sept. 1, 2003.

SUBCHAPTER C. PETITION ALLEGING PREDATOR STATUS

Sec. 841.041. PETITION ALLEGING PREDATOR STATUS. (a) If a person is referred to the attorney representing the state under Section 841.023, the attorney may file, 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.

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

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

(2) served on the person as soon as practicable after the date the petition is filed.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 347, Sec. 20, eff. Sept. 1, 2003.

SUBCHAPTER D. TRIAL

Sec. 841.061. TRIAL. (a) Not later than the 270th day after the date a petition is served on the person under Section

841.041, the judge shall conduct a trial to determine whether the person is a sexually violent predator.

(b) The person or the state is entitled to a jury trial on demand. A demand for a jury trial must be filed in writing not later than the 10th day before the date the trial is scheduled to begin.

(c) The person and the state are each entitled to an immediate examination of the person by an expert. All components of the examination must be completed not later than the 90th day before the date the trial begins.

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

- (1) the right to appear at the trial;
- (2) except as provided by Subsection (f), the right to present evidence on the person's behalf;
- (3) the right to cross-examine a witness who testifies against the person; and
- (4) the right to view and copy all petitions and reports in the court file.

(e) The attorney representing the state may rely on the petition filed under Section 841.041 and supplement the petition with documentary evidence or live testimony.

(f) A person who is on trial to determine the person's status as a sexually violent predator is required to submit to all expert examinations that are required or permitted of the state to prepare for the person's trial. A person who fails to submit to expert examination on the state's behalf as required by this subsection is subject to the following consequences:

- (1) the person's failure to participate may be used as evidence against the person at trial;
- (2) the person may be prohibited from offering into evidence the results of an expert examination performed on the person's behalf; and
- (3) the person may be subject to contempt proceedings if the person violates a court order by failing to submit to an expert examination on the state's behalf.

(g) A judge assigned to preside over a trial under this subchapter is not subject to an objection under Section 74.053,

Government Code, other than an objection made under Section 74.053(d), Government Code.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 347, Sec. 21, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1219, Sec. 7, eff. June 15, 2007.

Sec. 841.062. DETERMINATION OF PREDATOR STATUS. (a) The judge or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. Either the state or the person is entitled to appeal the determination.

(b) A jury determination that the person is a sexually violent predator must be by unanimous verdict.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999.

Sec. 841.063. CONTINUANCE. The judge may 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.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 347, Sec. 22, eff. Sept. 1, 2003.

Sec. 841.064. MISTRIAL. A trial following a mistrial must begin not later than the 90th day after the date a mistrial was declared in the previous trial, unless the later trial is continued as provided by Section 841.063.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999.

SUBCHAPTER E. CIVIL COMMITMENT

Sec. 841.081. CIVIL COMMITMENT OF PREDATOR. (a) If at a trial conducted under Subchapter D the judge or jury determines that the person is a sexually violent predator, the judge shall commit the person for outpatient treatment and supervision to be coordinated by the case manager. The commitment order is effective immediately on entry of the order, except that the outpatient treatment and supervision begins on the person's release from a secure correctional facility or discharge from a state hospital and continues until the person's behavioral abnormality has changed to the extent that the person is no longer likely to engage in a predatory act of sexual violence.

(b) At any time after entry of a commitment order under Subsection (a), the case manager may provide to the person instruction regarding the requirements associated with the order, regardless of whether the person is incarcerated at the time of the instruction.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 347, Sec. 23, eff. Sept. 1, 2003.

Sec. 841.082. COMMITMENT REQUIREMENTS. (a) Before entering an order directing a person's outpatient civil commitment, the judge shall impose on the person requirements necessary to ensure the person's compliance with treatment and supervision and to protect the community. The requirements shall include:

(1) requiring the person to reside in a Texas residential facility under contract with the council or at another location or facility approved by the council;

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

(3) prohibiting the person's possession or use of alcohol, inhalants, or a controlled substance;

(4) requiring the person's participation in and compliance with a specific course of treatment;

(5) requiring the person to:

(A) submit to tracking under a particular type of tracking service and to any other appropriate supervision; and

(B) refrain from tampering with, altering, modifying, obstructing, or manipulating the tracking equipment;

(6) prohibiting the person from changing the person's residence without prior authorization from the judge and from leaving the state without that prior authorization;

(7) 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, Article 42.12, Code of Criminal Procedure, and requiring the person to comply with requirements related to the safety zone;

(8) requiring the person to notify the case manager immediately but in any event within 24 hours of any change in the person's status that affects proper treatment and supervision, including a change in the person's physical health or job status and including any incarceration of the person; and

(9) any other requirements determined necessary by the judge.

(b) A tracking service to which a person is required to submit under Subsection (a)(5) must:

(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 case manager at the case manager's request; and

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

(c) The judge shall provide a copy of the requirements imposed under Subsection (a) to the person and to the council. The council shall provide a copy of those requirements to the case manager and to the service providers.

(d) The court retains jurisdiction of the case with respect to a civil commitment proceeding conducted under Subchapters F and G.

(e) The requirements imposed under Subsection (a) may be modified at any time after notice to each affected party to the proceedings and a hearing.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 347, Sec. 24, eff. Sept.

1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 849, Sec. 3, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 849, Sec. 7(1), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 593, Sec. 1.12, eff. September 1, 2007.

Sec. 841.083. TREATMENT; SUPERVISION. (a) The council shall approve and contract for the provision of a treatment plan for the committed person to be developed by the treatment provider. A treatment plan may include the monitoring of the person with a polygraph or plethysmograph. The treatment provider may receive annual compensation in an amount not to exceed \$6,000 for providing the required treatment.

(b) The case manager shall provide supervision to the person. The provision of supervision shall include a tracking service and, if required by court order, supervised housing.

(c) The council shall enter into appropriate memoranda of understanding with the Texas Department of Public Safety 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) Notwithstanding Subsection (c) or any other provision of this subchapter, the council shall provide through the case management system any supervision or tracking service required under this chapter for persons residing in Dallas, Harris, or Tarrant County. The council shall provide the tracking service under this subsection through two employees of the Department of State Health Services. Any tracking personnel used by the department for purposes of this chapter must be approved by the council.

(c-2) If the equipment necessary to implement the tracking service is available through a contract entered into by the comptroller, the Department of Public Safety or the council, as appropriate, shall acquire that equipment through that contract.

(d) The council shall enter into appropriate memoranda of

understanding for any necessary supervised housing. The council shall reimburse the applicable provider for housing costs under this section. The committed person may not be 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. In this subsection:

(1) "Community center" means a center established under Subchapter A, Chapter 534.

(2) "Mental health facility" has the meaning assigned by Section 571.003.

(3) "State school" has the meaning assigned by Section 531.002.

(e) The case manager shall:

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

(2) 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; and

(3) provide a report to the council, semiannually or more frequently as necessary, which must include:

(A) any known change in the person's status that affects proper treatment and supervision; and

(B) any recommendations made to the judge.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 347, Sec. 25, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 849, Sec. 4, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 937, Sec. 1.94, eff. September 1, 2007.

Sec. 841.084. COST OF TRACKING SERVICE. Notwithstanding Section 841.146(c), a civilly committed person who is not indigent is responsible for the cost of the tracking service required by

Section 841.082 and monthly shall pay to the council the amount that the council determines will be necessary to defray the cost of operating the service with respect to the person during the subsequent month. The council immediately shall transfer the money to the appropriate service provider.

Added by Acts 2007, 80th Leg., R.S., Ch. 593, Sec. 1.13, eff. September 1, 2007.

Sec. 841.085. CRIMINAL PENALTY; PROSECUTION OF OFFENSE.

(a) 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.

(b) An offense under this section is a felony of the third degree.

(c) At the request of the local prosecuting attorney, an attorney employed by the civil division of the special prosecution unit described by Section 841.004 may assist in the trial of an offense under this section.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1219, Sec. 8, eff. September 1, 2007.

SUBCHAPTER F. COMMITMENT REVIEW

Sec. 841.101. BIENNIAL EXAMINATION. (a) A person committed under Section 841.081 shall receive a biennial examination. The council shall contract for an expert to perform the examination.

(b) In preparation for a judicial review conducted under Section 841.102, the case manager shall provide a report of the biennial examination to the judge. The report must include consideration of whether to modify a requirement imposed on the person under this chapter and whether to release the person from all requirements imposed on the person under this chapter. The case manager shall provide a copy of the report to the council.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999.

Sec. 841.102. BIENNIAL REVIEW. (a) The judge shall conduct a biennial review of the status of the committed person.

(b) The person is entitled to be represented by counsel at the biennial review, but the person is not entitled to be present at that review.

(c) The judge shall set a hearing if the judge determines at the biennial review that:

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

(2) probable cause exists to believe that the person's behavioral abnormality has changed to the extent that the person is no longer likely to engage in a predatory act of sexual violence.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999.

Sec. 841.103. HEARING. (a) At a hearing set by the judge under Section 841.102, the person and the state are entitled to an immediate examination of the person by an expert.

(b) If the hearing is set under Section 841.102(c)(1), hearsay evidence is admissible if it is considered otherwise reliable by the judge.

(c) If the hearing is set under Section 841.102(c)(2), the committed person is entitled to be present and to have the benefit of all constitutional protections provided to the person at the initial civil commitment proceeding. On the request of the person or the attorney representing the state, the court shall conduct the hearing before a jury. The burden of proof at that hearing is on the state to prove beyond a reasonable doubt that the person's behavioral abnormality has not changed to the extent that the person is no longer likely to engage in a predatory act of sexual violence.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999.

SUBCHAPTER G. PETITION FOR RELEASE

Sec. 841.121. AUTHORIZED PETITION FOR RELEASE. (a) If the case manager determines that the committed person's behavioral abnormality has changed to the extent that the person is no longer likely to engage in a predatory act of sexual violence, the case manager shall authorize the person to petition the court for release.

(b) The petitioner shall serve a petition under this section on the court and the attorney representing the state.

(c) The judge shall set a hearing on a petition under this section not later than the 30th day after the date the judge receives the petition. The petitioner and the state are entitled to an immediate examination of the petitioner by an expert.

(d) On request of the petitioner or the attorney representing the state, the court shall conduct the hearing before a jury.

(e) The burden of proof at the hearing is on the state to prove beyond a reasonable doubt that the petitioner's behavioral abnormality has not changed to the extent that the petitioner is no longer likely to engage in a predatory act of sexual violence.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999.

Sec. 841.122. RIGHT TO FILE UNAUTHORIZED PETITION FOR RELEASE. On a person's commitment and annually after that commitment, the case manager shall provide the person with written notice of the person's right to file with the court and without the case manager's authorization a petition for release.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999.

Sec. 841.123. REVIEW OF UNAUTHORIZED PETITION FOR RELEASE.

(a) If the committed person files a petition for release without the case manager's authorization, the person shall serve the petition on the court and the attorney representing the state.

(b) On receipt of a petition for release filed by the committed person without the case manager's authorization, the

judge shall attempt as soon as practicable to review the petition.

(c) Except as provided by Subsection (d), the judge shall deny without a hearing a petition for release filed without the case manager's authorization if the petition is frivolous or if:

(1) the petitioner previously filed without the case manager's authorization another petition for release; and

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

(A) the petition was frivolous; or

(B) the petitioner's behavioral abnormality had not changed to the extent that the petitioner was no longer likely to engage in a predatory act of sexual violence.

(d) The judge is not required to deny a petition under Subsection (c) if probable cause exists to believe that the petitioner's behavioral abnormality has changed to the extent that the petitioner is no longer likely to engage in a predatory act of sexual violence.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999.

Sec. 841.124. HEARING ON UNAUTHORIZED PETITION FOR RELEASE. (a) If as authorized by Section 841.123 the judge does not deny a petition for release filed by the committed person without the case manager's authorization, the judge shall conduct as soon as practicable a hearing on the petition.

(b) The petitioner and the state are entitled to an immediate examination of the person by an expert.

(c) On request of the petitioner or the attorney representing the state, the court shall conduct the hearing before a jury.

(d) The burden of proof at the hearing is on the state to prove beyond a reasonable doubt that the petitioner's behavioral abnormality has not changed to the extent that the petitioner is no longer likely to engage in a predatory act of sexual violence.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999.

SUBCHAPTER H. MISCELLANEOUS PROVISIONS

Sec. 841.141. RULEMAKING AUTHORITY. (a) The council by rule shall administer this chapter. Rules adopted by the council under this section must be consistent with the purposes of this chapter.

(b) The council by rule shall develop standards of care and case management for persons committed under this chapter.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999.

Sec. 841.142. RELEASE OR EXCHANGE OF INFORMATION. (a) To protect the public and to enable an assessment or determination relating to whether a person is a sexually violent predator, any entity that possesses relevant information relating to the person shall release the information to an entity charged with making an assessment or determination under this chapter.

(b) To protect the public and to enable the provision of supervision and treatment to a person who is a sexually violent predator, any entity that possesses relevant information relating to the person shall release the information to the case manager.

(c) On the written request of any attorney for another state or for a political subdivision in another state, the Texas Department of Criminal Justice, the council, a service provider contracting with one of those agencies, the multidisciplinary team, and the attorney representing the state shall 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) 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, the Texas Department of Criminal Justice, the council, a service provider contracting with one of those agencies, the multidisciplinary team, and the attorney representing the state may exchange any available information relating to the person.

(e) Information subject to release or exchange under this

section includes information relating to the supervision, treatment, criminal history, or physical or mental health of the person, as appropriate, regardless of whether the information is otherwise confidential and regardless of when the information was created or collected. The person's consent is not required for release or exchange of information under this section.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 347, Sec. 27, eff. Sept. 1, 2003.

Sec. 841.143. REPORT, RECORD, OR STATEMENT SUBMITTED TO COURT. (a) A psychological report, drug and alcohol report, treatment record, diagnostic report, medical record, or victim impact statement submitted to the court under this chapter is part of the record of the court.

(b) Notwithstanding Subsection (a), the report, record, or statement must be sealed and may be opened only:

- (1) on order of the judge;
- (2) as provided by this chapter; or
- (3) in connection with a criminal proceeding as otherwise provided by law.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999.

Sec. 841.144. COUNSEL. (a) Immediately after the filing of a petition under Section 841.041, a person subject to a civil commitment proceeding under this chapter is entitled to the assistance of counsel at all stages of the proceeding.

(b) If the person is indigent, the court shall appoint counsel as appropriate under Section 841.005 to assist the person.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 347, Sec. 28, eff. Sept. 1, 2003.

Sec. 841.145. EXPERT. (a) At the person's own expense, a person who is examined under this chapter may retain 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) On the request of an indigent person examined under this chapter, the judge shall determine whether expert services for the person are necessary. If the judge determines that the services are necessary, the judge shall appoint an expert to perform an examination or participate in a civil commitment proceeding on the person's behalf and shall approve compensation for the expert as appropriate under Subsection (c).

(c) The court shall approve reasonable compensation for expert services rendered on behalf of an indigent person on the filing of a certified compensation claim supported by a written statement specifying:

- (1) time expended on behalf of the person;
- (2) services rendered on behalf of the person;
- (3) expenses incurred on behalf of the person; and
- (4) compensation received in the same case or for the same services from any other source.

(d) The court shall ensure that an expert retained or appointed under this section has for purposes of examination reasonable access to a person examined under this chapter, as well as to all relevant medical and psychological records and reports.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 849, Sec. 5, eff. September 1, 2005.

Sec. 841.146. CIVIL COMMITMENT PROCEEDING; PROCEDURE AND COSTS. (a) On request, a person subject to a civil commitment proceeding under this chapter and the attorney representing the state are entitled to a jury trial or a hearing before a jury for that proceeding, except for a proceeding set by the judge under Section 841.102(c)(1). The number and selection of jurors are governed by Chapter 33, Code of Criminal Procedure.

(b) Except as otherwise provided by this subsection, a civil commitment proceeding is subject to the rules of procedure and

appeal for civil cases. To the extent of any conflict between this chapter and the rules of procedure and appeal for civil cases, this chapter controls.

(c) In an amount not to exceed \$2,500, the State of Texas shall pay all costs associated with a civil commitment proceeding conducted under Subchapter D. The State of Texas shall pay the reasonable costs of state or appointed counsel or experts for any other civil commitment proceeding conducted under this chapter and shall pay the reasonable costs of the person's outpatient treatment and supervision.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 347, Sec. 29, eff. Sept. 1, 2003.

Sec. 841.1461. CERTAIN EXPERT TESTIMONY NOT REQUIRED FOR CIVIL COMMITMENT OF SEXUALLY VIOLENT PREDATOR. A person who suffers from a behavioral abnormality as determined under this chapter is not because of that abnormality a person of unsound mind for purposes of Section 15-a, Article I, Texas Constitution.

Added by Acts 2003, 78th Leg., ch. 347, Sec. 30, eff. Sept. 1, 2003.

Sec. 841.1462. PRIVILEGE FOR PERSONAL INFORMATION THAT IDENTIFIES VICTIM. Personal information, including a home address, home telephone number, and social security account number, that identifies the victim of a person subject to a civil commitment proceeding under this chapter is privileged from discovery by that person.

Added by Acts 2003, 78th Leg., ch. 347, Sec. 30, eff. Sept. 1, 2003.

Sec. 841.1463. FAILURE TO GIVE NOTICE WITHIN RELEVANT PERIOD NOT JURISDICTIONAL ERROR. The periods within which notice must be given under this chapter are binding on all appropriate persons as provided by this chapter, but a failure to give notice within the relevant period is not a jurisdictional error.

Added by Acts 2003, 78th Leg., ch. 347, Sec. 30, eff. Sept. 1, 2003.

Sec. 841.147. IMMUNITY. The following persons are immune

from liability for good faith conduct under this chapter:

(1) an employee or officer of the Texas Department of Criminal Justice, the Department of State Health Services, the Department of Aging and Disability Services, or the council;

(2) a member of the multidisciplinary team established under Section 841.022;

(3) an employee of the civil division of the special prosecution unit charged with initiating and pursuing civil commitment proceedings under this chapter; and

(4) a person providing, or contracting, appointed, or volunteering to perform, a tracking service or another service under this chapter.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 4.01, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 347, Sec. 31, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1219, Sec. 9, eff. September 1, 2007.

Sec. 841.150. EFFECT OF SUBSEQUENT COMMITMENT OR CONFINEMENT ON ORDER OF CIVIL COMMITMENT. (a) The 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.

(b) In this section:

(1) "Community center" means a center established under Subchapter A, Chapter 534.

(2) "Mental health facility" has the meaning assigned by Section 571.003.

(3) "State school" has the meaning assigned by Section 531.002.

Added by Acts 2003, 78th Leg., ch. 347, Sec. 30, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 849, Sec. 6, eff. September 1, 2005.