

Agency History

TCCO, then called the Office of Violent Sex Offender Management (OVSOM), was created as a separate state agency in September 2011 to perform the functions relating to the outpatient sexually violent predator treatment program. Prior to the creation of the OVSOM, the Council on Sex Offender Treatment (CSOT) was responsible for the administration and implementation of Texas' civil commitment program.

Civil Commitment 1995 - 2015

In 1995, the Texas Legislature first contemplated a Sexually Violent predator (SVP) Act with the introduction of House Bill 595 by Representatives Greenberg, Hochburg, Danburg, et. al. As introduced, HB 595 would have provided for court-ordered mental health services for those individuals determined to be a SVP. Proceedings for these mental health treatment services for SVPs would have been governed by the Texas Mental Health Code, Chapter 574 of the Texas Health and Safety Code. However, the bill failed before the House Criminal Jurisprudence Committee.

In 1997, the 75th Texas Legislature considered Senate Bill 77 authored by Senators John Whitmire and Florence Shapiro. SB 77 was substantially similar to HB 595 from the previous legislative session and would have provided for the involuntary commitment of SVPs. The measure died in committee, partly because of potential constitutional issues concerning similar laws and lack of appropriations for the commitment of SVPs. The estimated costs were \$10.4 million in renovations for a 96-bed facility, \$3 million in assessments per year, and \$78,000 per year per sexually violent predator to provide care, treatment, security, food, other necessities, managerial support and administrative staff. A key question appeared to be whether it was constitutional to involuntarily commit people after completing their criminal sentences. The Legislature directed an interim committee to study SVP laws and the need for an SVP law in Texas.

In 1999, SB 365 by Senator J.E. Brown was amended with SB 29 by Senator Florence Shapiro and the Legislature determined that a small, but extremely dangerous group of SVPs were being released from prison and that these individuals had a behavioral abnormality that was not amenable to traditional mental illness treatment modalities. The legislature further found that these individuals were likely to engage in repeated acts of predatory sexual violence. SB 365 expanded the duties of the CSOT to include the administration and implementation of the Outpatient Sexually Violent Predator Treatment Program.

In 2003, SB 871 by Senator Florence Shapiro amended Chapter 841 of the Texas Health and Safety Code to require a court to appoint an attorney for a SVP if the State Counsel for Offenders was unable to represent the SVP. The bill further added an additional member from CSOT to the Multidisciplinary Team (MDT). SB 871 further increased the date by which a trial shall be conducted after filing a petition alleging a person is a SVP from 60 days to 270 days. SB 871 further amended Chapter 841 to clarify that subsequent convictions, judgments, or mental health commitments suspend the requirements under the chapter. The bill added that the behavioral

abnormality is not due to unsound mind for purposes of Section 15-a, Article I, Texas Constitution, increased cost not to exceed \$2,500 for the trial, and added the judicial requirements of not only participation but compliance with treatment, tampering with GPS, and possession or use of alcohol, inhalants, or a controlled substance.

In 2005, the 79th Legislature SB 912 by Senator Florence Shapiro amended Health & Safety Code, Chapter 841 to add sexually violent offenses to include sexually motivated murder and capital murder. The bill transferred some of the Global Positioning Satellite (GPS) tracking responsibilities to case managers from the Department of Public Safety, required that the SVP shall reside in a facility under contract with CSOT, and allowed SVPs to be housed in Mental Health/Mental Retardation facilities. Additionally, under HB 2292, the Texas Department of Health and the CSOT were consolidated into the Health and Human Services Commission (HHSC) umbrella in the Department of State Health Services (DSHS).

In 2007, during the 80th legislative session HB 2034 by Representative Kirk England with SB 1198 by Senator Florence Shapiro amended Health & Safety Code, Chapter 841, to clarify that the division of the Special Prosecutions Unit (SPU) responsible for civil commitment trials is a civil division. The bill allowed the local prosecuting attorney to request SPU assist in a violation trial and that failure to comply with civil commitment may be prosecuted in the county of violation or Montgomery County. House Bill 8 by Representative Debbie Riddle required SVPs to pay for the GPS tracking if the SVP was not indigent. SB 1951 by Senator Wentworth created the 435th Judicial District Court in Montgomery County for civil commitment proceedings under Chapter 841, Health & Safety Code and criminal cases involving 841.085, Health & Safety Code, and Article 62.203, Code of Criminal Procedures. SB 1741 (by Senator Florence Shapiro) was filed to create a new state agency to perform the functions relating to the outpatient sexually violent predator treatment program that were performed by the CSOT. The bill died on the House floor.

In 2009, during the 81st legislative session, HB 2917 by Representative Jim McReynolds and Senator Florence Shapiro amended Government Code Section 411.110 to permit CSOT to obtain criminal history records of current and potential employees of the outpatient sexually violent predator treatment program. Senator Florence Shapiro re-filed the bill (SB 2037) to create a new state agency to perform the functions relating to the outpatient sexually violent predator treatment program. The bill would have amended the Government Code by adding a new Chapter 420A titled "Office of Violent Sex Offender Management (OVSOM)." The bill died on the House floor prior to final readings.

In 2011, during the 82nd Legislature, Senator Florence Shapiro re-filed the bill (SB 166 and HB 236 by Representative Jerry Madden) to create a new state agency to perform the functions relating to the outpatient sexually violent predator treatment program. The bill amended the Government Code by adding a new Chapter 420A titled "Office of Violent Sex Offender Management (OVSOM)." The bill was amended on the floor of the House of Representatives to administratively attach the new agency to the DSHS solely for administrative support as

necessary to carry out the purpose of the OVSOM. Additionally, the bill amended Health & Safety Code, Chapter 841, regarding: the composition of the MDT to remove one member of the CSOT and one member from DSHS-Mental Health to add two members of OVSOM; requiring the person to comply with all written requirements imposed by the case manager or the office; increased the compensation for treatment providers not to exceed \$10,000 per OVSOM client; allows the office to enter into a memorandum of understanding with both DPS and local law enforcement for criminal complaints, warrants, apprehension, and arrest of the person; requires the office to contract with DPS for the provision of a tracking service; and requires a correctional facility or secure correctional facility to notify the case manager prior to releasing the person. On June 17, 2011 the bill was signed by Governor Rick Perry with the effective date of September 1, 2011.

2015 Legislative Changes – Senate Bill 746

Civil commitment in Texas was administered by the OVSOM from 2011 until 2015 when the agency was renamed as a result of the 84th Legislative Session, Senate Bill 746. The 84th Legislative Session brought about much needed change to the sexually violent predator SVP civil commitment program in the form of Senate Bill 746 by Senators Whitmire and Perry. As a preliminary matter, the name of the agency was changed from OVSOM to the Texas Civil Commitment Office (TCCO).

Changes to TCCO Board

Additionally, Senate Bill 746 made significant changes to the TCCO Board. Previously, OVSOM was governed by a three-member Board appointed by the governor. However, the small size of the Board was unduly burdensome in that it made it impossible to develop Board Committees or even for two Board members to have any conversation regarding agency business because two members constituted a quorum. Senate Bill 746 increased the Board to a five-member Board which must include 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. Most significantly, SB 746 made significant changes to the process for the commitment of SVPs, the housing and treatment of SVPs, and TCCO's authority to make decisions regarding the needs of SVPs.

Changes to MDT Process

Senate Bill 746 revised Section 841.003 of the Health and Safety Code to remove from consideration for civil commitment those cases in which the individual was adjudged not guilty by reason of insanity. As a result, cases are no longer presented to the multidisciplinary team by the DSHS but rather only by TDCJ for those individuals serving a prison sentence. This helps to ensure that those who are civilly committed are able to participate in the treatment program.

Changes to Processing of SVP Cases

A significant change made by SB 746 was to decentralize civil commitment cases from one district court in Montgomery County to all Texas counties based on the SVP's last county of conviction for a violent sex offense. Chapter 841 now defines the attorney representing the state to be the district attorney, criminal district attorney, or county attorney with felony criminal jurisdiction. Section 841.023 of the Health and Safety Code now provides that TDCJ is required to give notice of those suffering from a behavioral abnormality to the district or county attorney for the county in

which the person was most recently convicted of a violent sex offense. Additionally, Section 841.041 was amended to provide that cases are filed in the court that most recently convicted the person of a violent sex offense.

Changes to Commitment Requirements

Section 841.082 was amended to modify the requirements of civil commitment set forth in the order of commitment. Previously, the order of commitment was required to include eight categories of language. Now, in order to allow TCCO the ability to tailor treatment programming to the individual SVP, there are only five categories required of the order of commitment: 1) that the SVP reside where instructed by TCCO; 2) a prohibition against the SVP contacting his victim; 3) that the SVP participate in and comply with the sex offender treatment program and written requirements imposed by the office; 4) that the SVP submit to GPS monitoring and refrain from tampering with or manipulating the GPS device; and 5) a prohibition against the SVP leaving the state without TCCO's authorization.

Finally, while SVPs have been entering into agreed orders of commitment throughout the duration of the civil commitment program in Texas there had never been a formalized requirement regarding agreed orders. Senate Bill 746 added Section 841.065 of the Health and Safety Code which specifies that any agreed order of civil commitment must require that the SVP submit to the treatment and supervision of TCCO. This is to ensure that all civilly committed SVPs are provided with appropriate supervision and treatment, which TCCO is required by Section 841.007 to provide.

Changes to Treatment Programming

Texas' SVP Act has always provided that the agency responsible for administering civil commitment was required to provide appropriate and necessary supervision and treatment. However, Senate Bill 746 required specific changes for the implementation of a tiered program for SVP treatment and supervision. The concept of a tiered program is similar to that which is used by other successful civil commitment programs such as Washington State.

SB 746 added Section 841.0831 to specify that TCCO shall develop a tiered program for the supervision and treatment of SVPs. Further, the tiered program is required to provide for seamless transitions of SVPs from total confinement facilities to less restrictive housing and supervision to eventual release from commitment, based upon the SVP's progress in treatment and behavior. To assist in the implementation of the tiered treatment program, Section 841.0832 was added which provides that TCCO shall operate, or contract with a vendor to operate, one or more facilities for the housing of committed persons. In the operation of such facilities, TCCO is required to designate a facility to serve as an intake and orientation facility for SVPs being released from prison.

Section 841.0834 provides that TCCO is required to transfer a SVP to less restrictive housing and supervision if the transfer is in the best interests of the SVP and conditions can be imposed to adequately protect the community. Once transferred to a less restrictive tier, a SVP can be

returned to a more restrictive tier if the transfer is necessary to further the SVP's treatment and protect the community. Further, a SVP who wishes to transfer to a less restrictive tier may file a petition with the court for a transfer. When a SVP has progressed to the point that he is released from housing operated by TCCO or under contract with TCCO, he is required to return to his county of last conviction for a violent sex offense.

Finally, Section 841.084 was amended to provide that a SVP who is not indigent is responsible for the cost of the housing, treatment, and GPS monitoring provided under Chapter 841. Previously, SVPs were only responsible for the cost of the GPS monitoring service. TCCO has implemented this requirement by enacting a policy that non-indigent SVPs are to pay 33.33% of their income toward their housing, treatment, and GPS costs or the actual cost of services, whichever is less.

2017 Legislative Changes

During the 85th Legislative Session two significant bills were passed which impacted the TCCO. Senate Bill 613 by Senator Whitmire and Senate Bill 1576 by Senator Perry.

Senate Bill 613 clarified language in Section 841.0835 of the Health and Safety Code to specifically provide that HHSC is required to provide inpatient psychiatric services and housing for SVPs who are unable to effectively participate in sex offender treatment due to their mental illness. The goal is to provide intensive, inpatient mental health treatment for these SVPs until such time as they are able to participate in TCCO's sex offender treatment program, at which point they can rejoin the TCCO program at the Texas Civil Commitment Center.

Senate Bill 1576 made several changes to enhance the safety and security of residents and staff at the Texas Civil Commitment Center by prohibiting the introduction of drugs, alcohol, or weapons into the facility, authorizing the usage of mechanical or chemical restraints in extreme circumstances, and enhancing penalties for assaults on TCCO staff by SVPs. Additionally, Senate Bill 1576 made some changes regarding sex offender registration and identification cards for SVPs in the TCCC and changed TCCO's administrative attachment to HHSC rather than the Department of State Health Services.