

SUBJECT: Increasing state payment for sex offender civil commitment trials

COMMITTEE: Corrections — favorable, without amendment

VOTE: 6 ayes — Allen, Hopson, Stick, Alonzo, Haggerty, Mabry
0 nays
1 absent — Farrar

SENATE VOTE: On final passage, May 6 — voice vote

WITNESSES: For — Olen Underwood
Against — None
On — *(Registered, but did not testify:)* Gina DeBottis, Special Prosecution Unit

BACKGROUND: Under Health and Safety Code, sec. 841, certain repeat sex offenders released from a prison or a state mental health facility can be committed through civil courts to outpatient treatment and supervision. The law authorizes the civil commitment of sexually violent predators, defined as repeat sexually violent offenders who suffer from a behavioral abnormality that makes them likely to engage in a predatory act of sexual violence.

Offenders are evaluated and, if appropriate, referred to the state’s prison prosecution unit for civil commitment court proceedings. A special division of the prison prosecution unit represents the state as the prosecutor in the court proceedings, which begin with the prosecutor filing a petition in a Montgomery County district court alleging that the person is a sexually violent predator. People considered for civil commitment have the right to counsel from the Texas Department of Criminal Justice’s (TDCJ) Office of State Counsel for Offenders.

The state must pay up to \$1,600 for the cost of a civil commitment trial to determine whether a person is a sexually violent predator. For any civil

commitment proceeding, the state must pay the costs of appointed counsel and experts and of outpatient treatment and supervision.

DIGEST: SB 1834 would increase from \$1,600 to \$2,500 the maximum amount that the state must pay for the cost of a civil commitment trial to determine whether a person was a sexually violent predator.

The bill would take effect September 1, 2003.

SUPPORTERS SAY: SB 1834 would require the state to cover more of the cost of civil commitment trials. The current cap of \$1,600 is insufficient to cover the approximate \$4,800 cost for each trial, and Montgomery County, the only venue for these cases, must pick up the rest of the tab for the approximately 15 civil commitment cases it hears annually.

According to the bill's fiscal note, Montgomery County spends about \$72,000 per year on the civil commitment cases but is reimbursed only about \$24,000. It is unfair to expect Montgomery County to continue to shoulder such a large burden for civil commitment trials for offenders from across the state, which help protect the public statewide. At an affordable cost to the state of only about \$13,500 per year, SB 1834 would help Montgomery County minimize its costs for this public service.

OPPONENTS SAY: SB 1834 would not go far enough. The state should pay for the full cost of a civil commitment trial instead of saddling Montgomery County with whatever expenses the state payment does not cover. The state reimbursement at least should be closer to the \$4,800 cost of each case.

NOTES: SB 1093 by Shapiro, also on today's General State Calendar, would limit to "reasonable" costs the state's responsibility for paying the costs of state or appointed counsel in civil commitment proceedings and the cost of outpatient treatment and supervision.