

**SUBJECT:** Improper sexual activity, violating civil rights of persons in custody

**COMMITTEE:** Corrections — favorable, without amendment

**VOTE:** 5 ayes — Parker, White, Riddle, Rose, J.D.Sheffield

0 nays

2 absent — Allen, Toth

**SENATE VOTE:** On final passage, May 2 — 31-0, on Local and Uncontested Calendar

**WITNESSES:** No public hearing

**BACKGROUND:** Penal Code, sec. 39.04 makes it a crime for certain officials and others involved with correctional facilities to deny a person in custody a right, privilege, or immunity, knowing that it is illegal to do so or to engage in sex with someone in custody. This applies to officials or employees of correctional facilities, volunteers and anyone working at correctional facilities, and peace officers.

In this section, the definition of correctional facilities references Penal Code, sec. 1.07(a)(14), which defines correctional facilities as places designed by law enforcement to confine persons arrested for, charged with, or convicted of criminal offenses, including city and county jails and facilities operated by or for the Texas Department of Criminal Justice. The section also has its own definition of correctional facility that includes secure correctional and detention facilities defined in the Family Code, sec. 51.02 under juvenile justice provisions.

**DIGEST:** SB 1772 would include officials, volunteers, employees, and others working at juvenile facilities in the Penal Code, sec. 39.04 definition of the crime of violating the civil rights of someone in custody and improper sexual activity with a person in custody.

Instead of referencing a Family Code definition of certain juvenile facilities, the bill would add a definition to the offense in the Penal Code. Juvenile facilities would be defined as facilities for the detention or

placement of juveniles who are under the jurisdiction of the court and that are operated by the Texas Juvenile Justice Department, a juvenile board, or a another governmental unit or by a private vendor under contract with one of these entities.

The bill would take effect September 1, 2013.