

BILL ANALYSIS

Senate Research Center

C.S.H.B. 1944
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Criminal Justice
5/17/2007
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Sexual assault in Texas prisons is a problem that affects prisoners of all ages. Currently, a shortage of correctional staff and inadequate training has led to ineffective prevention, reporting, and investigation of sexual assault allegations.

A Bureau of Justice Statistics report found that, in 2005, 36 percent of all reported prison rapes in the U.S. occurred in Texas. However, these numbers may be seen as conservative estimates due to the fact that such assaults often go unreported and inmate victims do not receive treatment. Prison staff may not be adequately trained to prevent, report, or treat victims of sexual assault, leading to increased cases of HIV and increases in the overall cost of prison health care. Victims of prison rape suffer physical and psychological effects that may impede their ability to reintegrate into their communities and maintain stable employment.

C.S.H.B. 1944 creates a position of ombudsperson in the Office of the Inspector General to monitor prevention and investigation policies to ensure impartial resolution of inmate complaints of sexual assault. The bill also requires the ombudsperson to submit a report to certain governmental entities regarding the ombudsperson's activities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 57.02, Code of Criminal Procedure, by adding Subsection (i), to provide that this article (Confidentiality of Files and Records) does not prohibit the inspector general of the Texas Department of Criminal Justice (TDCJ) from disclosing a victim's identifying information to TDCJ's ombudsperson if the victim is an inmate or state jail defendant confined in a facility operated by or under contract with TDCJ.

SECTION 2. Amends Article 57.03, Code of Criminal Procedure, by adding Subsection (c-1), to set forth an exception in this subsection to the application of this article (Offense).

SECTION 3. Amends Chapter 501, Government Code, by adding Subchapter F, as follows:

SUBCHAPTER F. ELIMINATION OF SEXUAL ASSAULT AGAINST INMATES

Sec. 501.171. DEFINITIONS. Defines "correctional facility" and "inmate."

Sec. 501.172. APPOINTMENT OF OMBUDSPERSON. Requires the Texas Board of Criminal Justice (board) to appoint an ombudsperson to coordinate TDCJ's efforts to eliminate the occurrence of sexual assault in correctional facilities. Requires the ombudsperson to report to the board.

Sec. 501.173. POWERS AND DUTIES OF OMBUDSPERSON. (a) Sets forth the powers and duties of the ombudsperson.

(b) Authorizes the ombudsperson to collect evidence and interview inmates or employees at correctional facilities in conducting an investigation of an inmate complaint of sexual assault under this section

(c) Prohibits the ombudsperson from requiring an inmate who reports a sexual assault to assist in the investigation or prosecution of the offense.

Sec. 501.174. DEPARTMENT TO ADOPT POLICY. Requires TDCJ to adopt a policy with certain provisions as set forth in this subsection.

Sec. 501.175. OMBUDSPERSON TO MAKE AVAILABLE TO PUBLIC CERTAIN INFORMATION. Requires the ombudsperson to make available to the public and appropriate state agencies certain information set forth in this subsection.

Sec. 501.176. ANNUAL REPORT. (a) Requires the ombudsperson to submit a written report regarding the activities of the ombudsperson during the preceding fiscal year to certain entities set forth in this subsection.

(b) Requires the report to include certain public information as set forth in this subsection.

(c) Requires the annual report to meet the financial reporting requirements of the General Appropriations Act.

(d) Requires the board, upon review of the findings of the report, to make recommendations on, or implement policy that has the goal of, lowering the rate and incidence of sexual assault against inmates at a correctional facility, to include methods to address a facility where the rates and incidence of sexual assault against inmates has not shown improvement.

Sec. 501.177. STATE AUDITOR AUDITS, INVESTIGATIONS, AND ACCESS TO INFORMATION NOT IMPAIRED. Provides that this subchapter or other law related to the operation of the ombudsperson or the office of the inspector general does not prohibit the state auditor from conducting an audit, investigation, or other review or from having full and complete access to all records and other information, including witnesses and electronic data, that the auditor considers necessary for the audit, investigation, or other review.

Sec. 501.178. AUTHORITY OF STATE AUDITOR TO CONDUCT TIMELY AUDITS NOT IMPAIRED. Provides that this subchapter or other law related to the operation of the ombudsperson or the office of the inspector general does not take precedence over the authority of the state auditor to conduct an audit under Chapter 321 (State Auditor) or other law.

SECTION 4. Makes application of Article 57.03(c-1), Code of Criminal Procedure, as added by this Act, prospective.

SECTION 5. Requires TDCJ to appoint an ombudsperson and adopt a policy as required by Subchapter F, Chapter 501, Government Code, as added by this Act, not later than December 1, 2008.

SECTION 6. Requires TDCJ's ombudsperson to submit the first report required by Section 501.176, Government Code, as added by this Act, not later than January 1, 2009.

SECTION 7. Effective date: upon passage or September 1, 2007.