

BILL ANALYSIS

Senate Research Center

S.B. 1772
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Criminal Justice
4/11/2013
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under Section 39.04 (Violation of the Civil Rights of Person in Custody; Improper Sexual Activity With Person in Custody), Penal Code, there is no mention of a juvenile state facility operated by or under contract with the Texas Juvenile Justice Department or a facility operated by or under contract with a juvenile board.

If an official, an employee, a person other than an employee who works for compensation, a volunteer, or a peace officer commits an offense in violation of Section 39.04 of the Penal Code at one of these facilities, they cannot be prosecuted under this section of the Penal Code.

S.B. 1772 modifies the current language of Section 39.04 of the Penal Code to include these facilities, thereby allowing for prosecution of such offenses under that section of the code.

As proposed, S.B. 1772 amends current law relating to the prosecution and punishment of certain offenses committed against juveniles in custody; imposing a criminal penalty.

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 Section 39.04, Penal Code, as follows:

(a) Changes references to a correctional facility to a correctional facility or juvenile facility. Provides that an official of a correctional facility or juvenile facility, an employee of a correctional facility or juvenile facility, a person other than an employee who works for compensation at a correctional facility or juvenile facility, a volunteer at a correctional facility or juvenile facility, or a peace officer commits an offense if the person intentionally:

- (1) denies or impedes a person in custody in the exercise or enjoyment of any right, privilege, or immunity knowing his conduct is unlawful; or
- (2) engages in sexual contact, sexual intercourse, or deviate sexual intercourse with an individual in custody or, in the case of an individual in the custody of the Texas Juvenile Justice Department (TJJD) or placed in a juvenile justice facility operated by or under contract with a juvenile board, rather than in the custody of the Texas Youth Commission (TYC), employs, authorizes, or induces the individual to engage in sexual conduct or a sexual performance.

(b) Provides that an offense under Subsection (a)(2) is a state jail felony, except that an offense under Subsection (a)(2) is a felony of the second degree if the offense is committed against:

(1) an individual in the custody of TJJD or placed in a juvenile justice facility operated by or under contract with a juvenile board, rather than an individual in the custody of TYC; or

(2) a juvenile offender detained in or committed to a correctional facility the operation of which is financed primarily with state funds.

(c)-(d) Makes no change to these subsections.

(e) Redefines "custody" in this section.

(f) Provides that an employee of the Texas Department of Criminal Justice (TDCJ), TJJD, rather than TYC, or a local juvenile probation department commits an offense if the employee engages in sexual contact, sexual intercourse, or deviate sexual intercourse with an individual who the employee knows is under the supervision of TDCJ, TYC, or the probation department but not in the custody of TDCJ, TYC, or the probation department.

(g)-(h) Makes no change to these subsections.

SECTION 2. Effective date: upon passage or September 1, 2013.