

**SUBJECT:** Adding immigration facilities to definition of correctional facility

**COMMITTEE:** Criminal Jurisprudence — favorable, without amendment

**VOTE:** 8 ayes — Herrero, Carter, Burnam, Canales, Leach, Moody, Schaefer, Toth  
0 nays  
1 absent — Hughes

**WITNESSES:** For — (*Registered, but did not testify:* Ballard C. Shapleigh, 34th Judicial District Attorney Jaime Esparza; Rebecca Bernhardt)  
Against — None  
On — (*Registered, but did not testify:* Shannon Edmonds, Texas District and County Attorneys Association)

**BACKGROUND:** Penal Code, sec. 39.04 makes it a crime for certain officials and others involved with correctional facilities to engage in sex with someone in custody or to deny a person in custody a right, privilege, or immunity, knowing that it is illegal to do so. 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, facilities operated by or for the Texas Department of Criminal Justice. The section also includes certain facilities operated by local community supervision departments and secure correctional and detention facilities defined in the Family Code under juvenile justice provisions.

Code of Criminal Procedure, art. 18.20, sec. 8B governs the detection of cell phone or wireless communication devices in correctional and detention facilities.

DIGEST:

HB 2678 would expand the definition of correctional facilities in Penal Code, sec. 39.04, dealing with civil rights violations and improper sexual activity with those in custody, to include places designed for the detention of persons suspected of violating a provision of the federal Immigration and Nationality Act.

The bill also would add these immigration facilities and a reference to the Penal Code definition of correctional facilities to the Code of Criminal Procedure art. 18.20, sec. 8B provisions on cell phone and wireless communication devices in correctional facilities.

The bill would take effect September 1, 2013, and would apply to offenses committed on or after that date.