

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 183
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Criminal Justice
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Offenders who commit crimes under the abuse of office have previously been prosecuted, and have been duly subject to conviction. However, similar offenders who are employees of contracted juvenile facilities who have committed sexual offenses against juveniles, detained in juvenile correctional facilities, repeatedly get away with abuse because current statute does not penalize their behavior.

Nearly all officials, employees, volunteers or peace officers working in juvenile facilities or juvenile placement are not currently held to the same accountability standard as correctional officers in state-owned facilities. This problem leads to an unintentional oversight in the law. Juvenile offenders in custody who are victims of such illegal sexual conduct have no recourse under current law.

C.S.S.B 183 makes punishable a state or contracted facility employee's criminal acts against a juvenile offender detained in a state or contracted facility and sets out to prosecute all offenders on the basis of their acts, no matter the source of primary funding for the correctional facility.

As proposed, C.S.S.B 183 clarifies that prohibited offenses against a juvenile in custody applies to officials or employees, including peace officers, volunteers or persons who work for compensation in a juvenile or correctional facility.

C.S.S.B. 183 amends current law relating to the offenses of the violation of civil rights of and improper sexual activity with individuals 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 Sections 39.04(a), (b), and (f), Penal Code, as follows:

(a) 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 or placed in a juvenile facility, rather than in the custody of the Texas Youth Commission, employs, authorizes, or induces the individual to engage in sexual conduct or a sexual performance.

(b) Provides that an offense under Subsection (a)(1) is a Class A misdemeanor. 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 the Texas Juvenile Justice Department or placed in a juvenile facility, rather than an individual in the custody of the Texas Youth Commission; or

(2) a juvenile offender detained in or committed to a correctional facility.

Deletes existing text providing 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 a juvenile offender detained in or committed to a correctional facility the operation of which is financed primarily with state funds.

(f) Provides that an employee of the Texas Department of Criminal Justice, the Texas Juvenile Justice Department, rather than the Texas Youth Commission, a juvenile facility, 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 the Texas Department of Criminal Justice, Texas Juvenile Justice Department, or probation department but not in the custody of the Texas Department of Criminal Justice, Texas Juvenile Justice Department, or probation department.

SECTION 2. Amends Section 39.04(e), Penal Code, by amending Subdivision (1) to redefine "correctional facility" and delete definitions of "secure correctional facility" and "secure detention facility," amending Subdivision (2) to redefine "custody," and adding Subdivision (2-a) to define "juvenile facility."

SECTION 3. Effective date: September 1, 2015.