

1-1 By: Coleman (Senate Sponsor - Ellis) H.B. No. 1944
1-2 (In the Senate - Received from the House May 3, 2007;
1-3 May 7, 2007, read first time and referred to Committee on Criminal
1-4 Justice; May 17, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 May 17, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1944 By: Ellis

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the elimination of sexual assault against inmates
1-11 confined in a facility operated by or under contract with the Texas
1-12 Department of Criminal Justice.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Article 57.02, Code of Criminal Procedure, is
1-15 amended by adding Subsection (i) to read as follows:

1-16 (i) This article does not prohibit the inspector general of
1-17 the Texas Department of Criminal Justice from disclosing a victim's
1-18 identifying information to the department's ombudsperson if the
1-19 victim is an inmate or state jail defendant confined in a facility
1-20 operated by or under contract with the department.

1-21 SECTION 2. Article 57.03, Code of Criminal Procedure, is
1-22 amended by adding Subsection (c-1) to read as follows:

1-23 (c-1) It is an exception to the application of this article
1-24 that:

1-25 (1) the person who discloses the name, address, or
1-26 telephone number of a victim is the inspector general of the Texas
1-27 Department of Criminal Justice;

1-28 (2) the victim is an inmate or state jail defendant
1-29 confined in a facility operated by or under contract with the
1-30 department; and

1-31 (3) the person to whom the disclosure is made is the
1-32 department's ombudsperson.

1-33 SECTION 3. Chapter 501, Government Code, is amended by
1-34 adding Subchapter F to read as follows:

1-35 SUBCHAPTER F. ELIMINATION OF SEXUAL ASSAULT AGAINST INMATES

1-36 Sec. 501.171. DEFINITIONS. In this subchapter:

1-37 (1) "Correctional facility" means a facility operated
1-38 by or under contract with the department.

1-39 (2) "Inmate" means an inmate or state jail defendant
1-40 confined in a facility operated by or under contract with the
1-41 department.

1-42 Sec. 501.172. APPOINTMENT OF OMBUDSPERSON. The board shall
1-43 appoint an ombudsperson to coordinate the department's efforts to
1-44 eliminate the occurrence of sexual assault in correctional
1-45 facilities. The ombudsperson shall report to the board.

1-46 Sec. 501.173. POWERS AND DUTIES OF OMBUDSPERSON. (a) The
1-47 ombudsperson shall:

1-48 (1) monitor department policies for the prevention of
1-49 sexual assault in correctional facilities;

1-50 (2) oversee the administrative investigation of
1-51 inmate complaints of sexual assault;

1-52 (3) ensure the impartial resolution of inmate
1-53 complaints of sexual assault; and

1-54 (4) collect statistics regarding all allegations of
1-55 sexual assault from each correctional facility in accordance with
1-56 the standards established by the National Prison Rape Elimination
1-57 Commission.

1-58 (b) The ombudsperson may collect evidence at correctional
1-59 facilities and interview inmates or employees at correctional
1-60 facilities in conducting an investigation of an inmate complaint of
1-61 sexual assault under this section.

1-62 (c) The ombudsperson may not require an inmate who reports a
1-63 sexual assault to assist in the investigation or prosecution of the

2-1 offense.

2-2 Sec. 501.174. DEPARTMENT TO ADOPT POLICY. The department

2-3 shall adopt a policy providing for:

2-4 (1) a designated administrator at each correctional

2-5 facility to post information throughout the facility describing how

2-6 an inmate may confidentially contact the ombudsperson regarding a

2-7 sexual assault;

2-8 (2) an inmate to write a confidential letter to the

2-9 ombudsperson regarding a sexual assault;

2-10 (3) employees at correctional facilities, on

2-11 notification of the occurrence of a sexual assault, to immediately:

2-12 (A) contact the ombudsperson and the office of

2-13 the inspector general; and

2-14 (B) ensure that the alleged victim is safe;

2-15 (4) the office of the inspector general, at the time

2-16 the office is notified of the sexual assault, to arrange for a

2-17 medical examination of the alleged victim to be conducted in

2-18 accordance with Article 56.06, Code of Criminal Procedure, or, if

2-19 an appropriate employee of the office of the inspector general is

2-20 not available at the time the office is notified of the sexual

2-21 assault, a qualified employee at the correctional facility to

2-22 conduct a medical examination of the alleged victim in accordance

2-23 with Article 56.06, Code of Criminal Procedure;

2-24 (5) a grievance proceeding under Section 501.008 based

2-25 on an alleged sexual assault to be exempt from any deadline

2-26 applicable to grievances initiated under that section; and

2-27 (6) each correctional facility to collect statistics

2-28 on all alleged sexual assaults against inmates confined in the

2-29 facility and to report the statistics to the ombudsperson.

2-30 Sec. 501.175. OMBUDSPERSON TO MAKE AVAILABLE TO PUBLIC

2-31 CERTAIN INFORMATION. The ombudsperson shall make available to the

2-32 public and appropriate state agencies:

2-33 (1) information regarding the powers and duties of the

2-34 ombudsperson; and

2-35 (2) statistical information regarding the total

2-36 number of allegations of sexual assault investigated by the

2-37 department, the outcome of the investigations, and any disciplinary

2-38 sanctions imposed as a result of the investigations.

2-39 Sec. 501.176. ANNUAL REPORT. (a) Not later than January 1

2-40 of each year, the ombudsperson shall submit a written report

2-41 regarding the activities of the ombudsperson during the preceding

2-42 fiscal year to:

2-43 (1) the governor;

2-44 (2) the lieutenant governor;

2-45 (3) the speaker of the house of representatives;

2-46 (4) the presiding officer of each house and senate

2-47 committee having jurisdiction over the department;

2-48 (5) the board;

2-49 (6) the executive director;

2-50 (7) the state auditor; and

2-51 (8) the comptroller.

2-52 (b) The report must include public information regarding:

2-53 (1) each investigation and monitoring activity

2-54 relating to sexual assault completed during the fiscal year by the

2-55 ombudsperson and the inspector general; and

2-56 (2) statistics collected by the ombudsperson

2-57 regarding allegations of sexual assault.

2-58 (c) The annual report must meet the financial reporting

2-59 requirements of the General Appropriations Act.

2-60 (d) Upon review of the findings of the annual report

2-61 submitted to the board, the board shall make recommendations on, or

2-62 implement policy that has the goal of, lowering the rate and

2-63 incidence of sexual assault against inmates at a correctional

2-64 facility. That policy will include methods to address a

2-65 correctional facility where the rate and incidence of sexual

2-66 assault against inmates has not shown improvement.

2-67 Sec. 501.177. STATE AUDITOR AUDITS, INVESTIGATIONS, AND

2-68 ACCESS TO INFORMATION NOT IMPAIRED. This subchapter or other law

2-69 related to the operation of the ombudsperson or the office of the

3-1 inspector general does not prohibit the state auditor from
3-2 conducting an audit, investigation, or other review or from having
3-3 full and complete access to all records and other information,
3-4 including witnesses and electronic data, that the state auditor
3-5 considers necessary for the audit, investigation, or other review.

3-6 Sec. 501.178. AUTHORITY OF STATE AUDITOR TO CONDUCT TIMELY
3-7 AUDITS NOT IMPAIRED. This subchapter or other law related to the
3-8 operation of the ombudsperson or the office of the inspector
3-9 general does not take precedence over the authority of the state
3-10 auditor to conduct an audit under Chapter 321 or other law.

3-11 SECTION 4. Subsection (c-1), Article 57.03, Code of
3-12 Criminal Procedure, as added by this Act, applies only to an offense
3-13 committed on or after the effective date of this Act. An offense
3-14 committed before the effective date of this Act is governed by the
3-15 law in effect when the offense was committed, and the former law is
3-16 continued in effect for that purpose. For purposes of this section,
3-17 an offense was committed before the effective date of this Act if
3-18 any element of the offense was committed before that date.

3-19 SECTION 5. Not later than December 1, 2008, the Texas
3-20 Department of Criminal Justice shall appoint an ombudsperson and
3-21 adopt a policy as required by Subchapter F, Chapter 501, Government
3-22 Code, as added by this Act.

3-23 SECTION 6. Not later than January 1, 2009, the ombudsperson
3-24 of the Texas Department of Criminal Justice shall submit the first
3-25 report required by Section 501.176, Government Code, as added by
3-26 this Act.

3-27 SECTION 7. This Act takes effect immediately if it receives
3-28 a vote of two-thirds of all the members elected to each house, as
3-29 provided by Section 39, Article III, Texas Constitution. If this
3-30 Act does not receive the vote necessary for immediate effect, this
3-31 Act takes effect September 1, 2007.

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