

House Bill 1944
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

No equivalent provision.

SECTION 1. Chapter 501, Government Code, is amended by adding Subchapter F to read as follows:
SUBCHAPTER F. ELIMINATION OF SEXUAL ASSAULT AGAINST INMATES

SENATE VERSION

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

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

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

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

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

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

(3) the person to whom the disclosure is made is the department's ombudsperson.

SECTION 3. Chapter 501, Government Code, is amended by adding Subchapter F to read as follows:
SUBCHAPTER F. ELIMINATION OF SEXUAL ASSAULT AGAINST INMATES

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Sec. 501.171. DEFINITIONS. In this subchapter:

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

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

Sec. 501.172. APPOINTMENT OF OMBUDSPERSON. The board shall appoint an ombudsperson to coordinate the department's efforts to eliminate the occurrence of sexual assault in correctional facilities. The ombudsperson is based in the office of the inspector general.

Sec. 501.173. POWERS AND DUTIES OF OMBUDSPERSON. (a) The ombudsperson shall:

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

(2) initiate and oversee appropriate criminal and civil investigations on notification of an inmate complaint of sexual assault;

(3) ensure the impartial resolution of inmate complaints of sexual assault; and

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

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

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Sec. 501.171. DEFINITIONS. In this subchapter:

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

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

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

Sec. 501.173. POWERS AND DUTIES OF OMBUDSPERSON. (a) The ombudsperson shall:

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

(2) oversee the administrative investigation of inmate complaints of sexual assault;

(3) ensure the impartial resolution of inmate complaints of sexual assault; and

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

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

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(c) The ombudsperson may not require an inmate who reports a sexual assault to assist in the investigation or prosecution of the offense.

Sec. 501.174. DEPARTMENT TO ADOPT POLICY.
The department shall adopt a policy providing for:

(1) a designated administrator at each correctional facility to post information throughout the facility describing how an inmate may confidentially contact the ombudsperson regarding a sexual assault;

(2) an inmate to write a confidential letter to the ombudsperson regarding a sexual assault;

(3) employees at correctional facilities, on notification of the occurrence of a sexual assault, to immediately:

(A) contact the office of the inspector general; and

(B) ensure that the alleged victim is safe;

(4) the office of the inspector general, at the time the office is notified of the sexual assault, to transport an alleged victim to the nearest emergency room for medical treatment and evidence collection;

(5) a qualified employee at each correctional facility to conduct a medical forensic exam of an alleged victim of sexual assault in accordance with Article 56.06, Code of Criminal Procedure;

(6) a reasonable deadline for an inmate to initiate a grievance proceeding under Section 501.008 based on an alleged sexual assault; and

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(c) The ombudsperson may not require an inmate who reports a sexual assault to assist in the investigation or prosecution of the offense.

Sec. 501.174. DEPARTMENT TO ADOPT POLICY.
The department shall adopt a policy providing for:

(1) a designated administrator at each correctional facility to post information throughout the facility describing how an inmate may confidentially contact the ombudsperson regarding a sexual assault;

(2) an inmate to write a confidential letter to the ombudsperson regarding a sexual assault;

(3) employees at correctional facilities, on notification of the occurrence of a sexual assault, to immediately:

(A) contact the ombudsperson and the office of the inspector general; and

(B) ensure that the alleged victim is safe;

(4) the office of the inspector general, at the time the office is notified of the sexual assault, to arrange for a medical examination of the alleged victim to be conducted in accordance with Article 56.06, Code of Criminal Procedure, or, if an appropriate employee of the office of the inspector general is not available at the time the office is notified of the sexual assault, a qualified employee at the correctional facility to conduct a medical examination of the alleged victim in accordance with Article 56.06, Code of Criminal Procedure;

(5) a grievance proceeding under Section 501.008 based on an alleged sexual assault to be exempt from any deadline applicable to grievances initiated under that section; and

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(7) each correctional facility to collect statistics on all alleged sexual assaults against inmates confined in the facility and to report the statistics to the ombudsperson.

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(6) each correctional facility to collect statistics on all alleged sexual assaults against inmates confined in the facility and to report the statistics to the ombudsperson.

Sec. 501.175. OMBUDSPERSON TO MAKE AVAILABLE TO PUBLIC CERTAIN INFORMATION. The ombudsperson shall make available to the public and appropriate state agencies:

(1) information regarding the powers and duties of the ombudsperson; and

(2) statistical information regarding the total number of allegations of sexual assault investigated by the department, the outcome of the investigations, and any disciplinary sanctions imposed as a result of the investigations.

Sec. 501.176. ANNUAL REPORT. (a) Not later than January 1 of each year, the ombudsperson shall submit a written report regarding the activities of the ombudsperson during the preceding fiscal year to:

(1) the governor;

(2) the lieutenant governor;

(3) the speaker of the house of representatives;

(4) the presiding officer of each house and senate committee having jurisdiction over the department;

(5) the board;

(6) the executive director;

(7) the state auditor; and

(8) the comptroller.

(b) The report must include public information regarding:

(1) each investigation and monitoring activity relating to

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sexual assault completed during the fiscal year by the ombudsperson and the inspector general; and
(2) statistics collected by the ombudsperson regarding allegations of sexual assault.
(c) The annual report must meet the financial reporting requirements of the General Appropriations Act.
(d) Upon review of the findings of the annual report submitted to the board, the board shall 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. That policy will include methods to address a correctional facility where the rate and incidence of sexual assault against inmates has not shown improvement.
Sec. 501.177. STATE AUDITOR AUDITS, INVESTIGATIONS, AND ACCESS TO INFORMATION NOT IMPAIRED. 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 state auditor considers necessary for the audit, investigation, or other review.
Sec. 501.178. AUTHORITY OF STATE AUDITOR TO CONDUCT TIMELY AUDITS NOT IMPAIRED. 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 or other law.

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No equivalent provision.

SECTION 2. Not later than December 1, 2008, the Texas Department of Criminal Justice shall appoint an ombudsperson and adopt a policy as required by Subchapter F, Chapter 501, Government Code, as added by this Act.

No equivalent provision.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III,

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

SECTION 5. Same as House version.

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

SECTION 7. Same as House version.

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Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

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