

BILL ANALYSIS

S.B. 1772
By: Huffman
Corrections
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties note that the law governing the offenses of violation of the civil rights of a person in custody or of improper sexual activity with a person in custody does not expressly include such offenses committed within the confines 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. The parties express concern regarding whether an official or employee of such a facility or a person other than an employee who works either for compensation or as a volunteer at such a facility who engages in conduct that otherwise would constitute an offense can be prosecuted. S.B. 1772 seeks to address this concern by clarifying the applicability of provisions creating those offenses.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1772 amends the Penal Code to expand the offenses of violation of the civil rights of a person in custody and of improper sexual activity with a person in custody to make such offenses applicable to an official or employee of a juvenile facility, a person other than an employee who works for compensation at a juvenile facility, or a volunteer at a juvenile facility who engages in the conduct constituting the offense. The bill enhances the penalty for the offense of improper sexual activity with a person in custody from a state jail felony to a second degree felony if the offense is committed against an individual placed in a juvenile facility. The bill makes the penalty enhancement applicable to such an offense committed against a juvenile offender detained in or committed to any correctional facility, rather than to an offense committed only against a juvenile offender detained in or committed to a correctional facility the operation of which is financed primarily with state funds.

S.B. 1772 redefines "correctional facility" for purposes of such offenses to remove a secure correctional facility or secure detention facility as those terms are defined under the juvenile justice code provisions of the Family Code. The bill redefines "custody" to include the commitment of a juvenile offender to a correctional facility or juvenile facility, rather than the commitment of a juvenile offender to a juvenile facility operated by or under a contract either with one of the predecessor agencies to the Texas Juvenile Justice Department (TJJD) or with a local juvenile board. The bill defines "juvenile facility" as a facility for the detention or placement of juveniles under juvenile court jurisdiction and that is operated wholly or partly by TJJD, a juvenile board, or another governmental unit or by a private vendor under a contract with TJJD, the juvenile board, or the governmental unit.

EFFECTIVE DATE

September 1, 2013.