

1-1 By: Huffman S.B. No. 1772
 1-2 (In the Senate - Filed March 8, 2013; March 25, 2013, read
 1-3 first time and referred to Committee on Criminal Justice;
 1-4 April 22, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 6, Nays 0; April 22, 2013,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 1772 By: Huffman

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the offenses of the violation of civil rights of and
 1-20 improper sexual activity with individuals in custody; imposing a
 1-21 criminal penalty.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Subsections (a), (b), and (f), Section 39.04,
 1-24 Penal Code, are amended to read as follows:

1-25 (a) An official of a correctional facility or juvenile
 1-26 facility, an employee of a correctional facility or juvenile
 1-27 facility, a person other than an employee who works for
 1-28 compensation at a correctional facility or juvenile facility, a
 1-29 volunteer at a correctional facility or juvenile facility, or a
 1-30 peace officer commits an offense if the person intentionally:

1-31 (1) denies or impedes a person in custody in the
 1-32 exercise or enjoyment of any right, privilege, or immunity knowing
 1-33 his conduct is unlawful; or

1-34 (2) engages in sexual contact, sexual intercourse, or
 1-35 deviate sexual intercourse with an individual in custody or, in the
 1-36 case of an individual in the custody of the Texas Juvenile Justice
 1-37 Department or placed in a juvenile facility [~~Youth Commission~~],
 1-38 employs, authorizes, or induces the individual to engage in sexual
 1-39 conduct or a sexual performance.

1-40 (b) An offense under Subsection (a)(1) is a Class A
 1-41 misdemeanor. An offense under Subsection (a)(2) is a state jail
 1-42 felony, except that an offense under Subsection (a)(2) is a felony
 1-43 of the second degree if the offense is committed against:

1-44 (1) an individual in the custody of the Texas Juvenile
 1-45 Justice Department or placed in a juvenile facility [~~Youth~~
 1-46 ~~Commission~~]; or

1-47 (2) a juvenile offender detained in or committed to a
 1-48 correctional facility [~~the operation of which is financed primarily~~
 1-49 ~~with state funds~~].

1-50 (f) An employee of the Texas Department of Criminal Justice,
 1-51 the Texas Juvenile Justice Department [~~Youth Commission~~], or a
 1-52 local juvenile probation department commits an offense if the
 1-53 employee engages in sexual contact, sexual intercourse, or deviate
 1-54 sexual intercourse with an individual who the employee knows is
 1-55 under the supervision of the Texas Department of Criminal Justice,
 1-56 Texas Juvenile Justice Department [~~department, commission~~], or
 1-57 probation department but not in the custody of the Texas Department
 1-58 of Criminal Justice, Texas Juvenile Justice Department
 1-59 [~~department, commission~~], or probation department.

1-60 SECTION 2. Subsection (e), Section 39.04, Penal Code, is

2-1 amended by amending Subdivisions (1) and (2) and adding Subdivision
2-2 (2-a) to read as follows:

2-3 (1) "Correctional facility" means[+
2-4 [~~(A)~~] any place described by Section
2-5 1.07(a)(14) [~~+or~~
2-6 [~~(B)~~ a "secure correctional facility" or "secure
2-7 detention facility" as defined by Section 51.02, Family Code].

2-8 (2) "Custody" means the detention, arrest, or
2-9 confinement of an adult offender, [~~or~~] the detention of a juvenile
2-10 offender, or the commitment of a juvenile offender to a
2-11 correctional facility or juvenile facility [~~operated by or under a
2-12 contract with the Texas Youth Commission or a facility operated by
2-13 or under contract with a juvenile board~~].

2-14 (2-a) "Juvenile facility" means a facility for the
2-15 detention or placement of juveniles under juvenile court
2-16 jurisdiction and that is operated wholly or partly by the Texas
2-17 Juvenile Justice Department, a juvenile board, or another
2-18 governmental unit or by a private vendor under a contract with the
2-19 Texas Juvenile Justice Department, juvenile board, or governmental
2-20 unit.

2-21 SECTION 3. This Act takes effect September 1, 2013.

2-22 * * * * *