

BILL ANALYSIS

S.B. 623
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Defense & Veterans' Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In the U.S. military, victims of sexual assault can report offenses to a federally employed sexual assault response coordinator, who must then alert the victim's commander if the victim chooses to pursue a criminal investigation. After reporting a sexual assault offense, a service member may receive a military protective order, which is a short-term order issued by a unit commander that ends when the victim is no longer on active duty. Victims of sexual assault who are service members often do not report the assault, however, due to fear of social and professional retaliation, concerns of confidentiality breaches, and a lack of confidence in the military justice system.

Texas has the largest state military force in the nation, with nearly 24,000 members. It has been suggested that the state could better protect those members by increasing the resources available to victims of sexual assault. There is currently no sexual assault response coordinator or independent criminal investigator for sexual assault cases occurring in the state military forces, and victims who are members lose the benefit of a military protective order when they are no longer on active duty or deployed. S.B. 623 seeks to support victims within the Texas military forces by establishing a sexual assault response coordinator outside the chain of command to receive reports of applicable offenses and provide victim advocacy services and by providing for the independent investigation of those offenses and for the issuance of appropriate protective orders.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 623 amends the Government Code to require the Texas Military Department, to the extent state funds are available for the purpose, to establish a state sexual offense prevention and response program and to employ or designate a state sexual offense response coordinator to perform victim advocacy services. The bill subjects a person who is subject to the Texas Code of Military Justice and commits an offense of sexual assault, indecent assault, or aggravated sexual assault to investigation under the bill's related provisions and to punishment under that code. The bill requires the coordinator to do the following:

- accept reports for applicable alleged offenses made by a member of the Texas military forces against an accused person who is also a member of the Texas military forces; and
- notify each victim of the reported assault of the person's eligibility for compensation under the Crime Victims' Compensation Act.

S.B. 623 establishes that the program and coordinator are within the department but are required to exercise the authority granted under the bill's provisions independently from the chain of command within the department. The coordinator must allow a member of the Texas military forces who is the victim of an alleged offense of sexual assault, indecent assault, or aggravated sexual assault to do the following:

- file with the coordinator a restricted or unrestricted report, as those reports are defined by the bill, or file a restricted report and later convert that report to an unrestricted report;
- participate in the U.S. Department of Defense Catch a Serial Offender program; and
- receive notice when the coordinator is made aware that the accused person has been subsequently accused of an applicable offense by a service member or any other person.

S.B. 623 requires the coordinator, on the filing of an unrestricted report alleging an offense of sexual assault or aggravated sexual assault, to refer that report to the Texas Rangers division of the Department of Public Safety for investigation. The bill authorizes the coordinator to refer the report to the appropriate local law enforcement agency for the initial collection of evidence. The bill requires a local law enforcement agency that initially collects evidence for the report to transfer all relevant evidence and information to the Texas Rangers division on request of that division. The bill requires the coordinator, on the filing of an unrestricted report alleging an offense of indecent assault, to refer that report to the appropriate local law enforcement agency for investigation.

S.B. 623 requires the Texas Rangers division to assign an officer to investigate reports referred to the division and, if the investigation demonstrates probable cause that an offense of sexual assault or aggravated sexual assault was committed by a person subject to the Texas Code of Military Justice, requires the investigator to refer the matter to the appropriate local district attorney, criminal district attorney, or county attorney with criminal jurisdiction. The bill authorizes the coordinator, with the consent of the victim of an offense of sexual assault or aggravated sexual assault alleged to have been committed by a person subject to that code, to file on behalf of the victim an application for a protective order, as provided by law for victims of sexual assault or abuse, stalking, or trafficking.

S.B. 623 requires the adjutant general or coordinator annually to submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the appropriate legislative standing committees on the activities under the program and the department's activities relating to sexual offense prevention and response. The bill sets out the required contents of the report with respect to the preceding state fiscal year, including requirements regarding the following:

- an analysis of the number of incidents of sexual assault and indecent assault involving members of the Texas military forces; and
- provisions relating to the use and reporting of certain aggregated statistical data and the protection of victim privacy in using restricted case data for the report's purposes.

S.B. 623 amends the Code of Criminal Procedure to establish that, for purposes of establishing grounds for a temporary ex parte protective order, a military protective order issued to a person because the person was a reported victim of an offense of sexual assault, indecent assault, or aggravated sexual assault constitutes sufficient information for a court to find there is a clear and present danger of sexual assault or abuse or other harm to the applicant.

S.B. 623 makes a requirement for the Texas Military Department to implement a provision of the bill contingent on a specific legislative appropriation for that purpose.

EFFECTIVE DATE

September 1, 2021.