

BILL ANALYSIS

Senate Research Center

S.B. 623
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In the U.S. military, victims of military sexual assault can report offenses to a federally employed Sexual Assault Response Coordinator (SARC) who must alert the victim's commander, should the victim choose to pursue a criminal investigation in the armed forces. Service members may receive a Military Protective Order (MPO) after reporting an offense of sexual assault. MPOs are short-term orders issued by a unit commander against an active-duty service member under his or her command. The MPO ends when a victim is no longer active-duty.

Victims of military sexual assault often do not report their assault 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 country with close to 24,000 members in the Texas Military Forces. The Texas Legislature has no jurisdiction over the U.S. military; however, Texas can set an example for the rest of the country in protecting its soldiers and increasing the resources available to victims of military sexual assault. The Texas Military Department (TMD) does not currently employ a Sexual Assault Response Coordinator. To pursue criminal charges, a victim of sexual assault in Texas military forces must rely on local law enforcement. Local law enforcement agencies often face jurisdictional challenges when investigating military sexual assault cases due to the nature of location unpredictability for service members. There is also no dedicated, independent criminal investigator for cases of military sexual assault. Currently, victims of sexual assault lose the protection of their MPO when they are no longer active duty or deployed.

S.B. 623 will support victims of sexual assault in the Texas Military Forces with additional resources and avenues for justice. S.B. 623 establishes a Sexual Assault Response Coordinator outside the chain of command to receive reports of sexual assault and provide victim advocacy services. S.B. 623 also designates a Texas Ranger under the Department of Public Safety as an independent criminal investigator for allegations of sexual assault in the Texas Military Forces. S.B. 623 establishes that military protective orders are sufficient grounds to grant a civilian ex parte protective orders for victims of military sexual assault. The bill also provides the victim with certain notifications of rights and resources. The bill also requires the TMD to provide an annual report to the legislature related to sexual assault prevention and response activities.

As proposed, S.B. 623 amends current law relating to the investigation and punishment of certain sexual assaults, to protective orders issued on the basis of certain sexual assaults, to crime victims' compensation, and to the establishment of a state sexual assault prevention and response program for the Texas Military Department.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 432, Government Code, by adding Subchapter J-1, as follows:

SUBCHAPTER J-1. SEXUAL ASSAULT

Sec. 432.171. DEFINITIONS. Defines, "coordinator," "program," and "department."

Sec. 432.172. SEXUAL ASSAULT. Provides that a person subject to Chapter 432 (Texas Code of Military Justice) who commits an offense under Section 22.011 (Sexual Assault) or 22.021 (Aggravated Sexual Assault), Penal Code, is subject to investigation under this subchapter and punishment under this chapter.

Sec. 432.173. STATE SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM; COORDINATOR. (a) Requires the Texas Military Department (department), to the extent state and federal funds are available for this purpose, to establish a state sexual assault prevention and response program and employ or designate a state sexual assault response coordinator (coordinator) to perform victim advocacy services, including ensuring that victims of sexual assault receive appropriate responsive care and understand the available reporting options.

(b) Requires the coordinator to notify the person who is the victim of sexual assault of their eligibility for the Crime Victims' Compensation program (program).

(c) Provides that the program and coordinator are within the department but are required to exercise the authority granted under this subchapter independently from the chain of command within the department.

(d) Requires that the program allow a victim of:

(1) an offense under Section 22.011 or 22.021, Penal Code, to file a report with the coordinator alleging that a person subject to this chapter committed the offense; and

(2) sexual harassment to:

(A) file a confidential complaint of sexual harassment with the coordinator;

(B) participate in the United States Department of Defense Catch a Serial Offender program;

(C) receive notice if the accused person is subsequently accused of an offense under Section 22.011 or 22.021, Penal Code, by a service member or any other person; and

(D) convert a confidential complaint to a formal complaint at any time.

Sec. 432.174. INVESTIGATION. (a) Requires the coordinator, upon the filing of a formal report and with the consent of the victim, to refer the case or allegation to the Texas Rangers division of the Texas Department of Public Safety (DPS) for investigation.

(b) Requires the Texas Rangers division of DPS to designate an officer of the Texas Rangers to serve as an investigator for cases and allegations referred to the division under this subchapter. Requires the investigator, if the investigation demonstrates a reasonable suspicion that an offense under Section 22.011 or 22.021, Penal Code, was committed by a person subject to this chapter, to refer the matter to a district attorney or criminal district attorney with the appropriate jurisdiction.

Sec. 432.175. PROTECTIVE ORDER. Authorizes the coordinator, in accordance with Article 7B.001(a-1), Code of Criminal Procedure, to file an application with the consent

of a person who is the victim for a protective order under Subchapter A (Protective Order for Victims of Sexual Assault or Abuse, Stalking, or Trafficking), Chapter 7B (Protective Orders), Code of Criminal Procedure, on behalf of a person who is the victim of an offense under Section 22.011 or 22.021, Penal Code, that is alleged to have been committed by a person subject to this chapter.

Sec. 432.176. REPORT TO LEGISLATURE; LEGISLATIVE OVERSIGHT. (a) Requires the adjutant general or coordinator to annually submit a report on the activities under the program and the activities of the department relating to sexual assault prevention and response to the governor, lieutenant governor, the speaker of the house of representatives, and the chairs of the standing committees of the senate and house of representatives with primary jurisdiction over the department.

(b) Requires that the report include:

(1) for the preceding state fiscal year:

(A) the policies and procedures implemented by the coordinator and adjutant general in response to incidents of sexual assault;

(B) an assessment of the implementation and effectiveness of the program and the policies and procedures on the prevention and oversight of and response to sexual assaults within the department, including an assessment of the department's efforts to execute the priorities of the United States Department of Defense Sexual Assault Prevention and Response Office and the department's Sexual Harassment/Assault Response Program;

(C) an analysis of the number of sexual assaults involving members of the state military forces; and

(D) deficiencies in the department's sexual assault prevention training; and

(2) for the current state fiscal year, the department's plans for preventing and responding to sexual assault, including plans relating to advocacy for sexual assault victims, health care provider and medical response, mental health and counseling response, investigative and legal services, and chaplain response.

(c) Provides that information provided in the report required under Subsection (b)(1)(C) for restricted cases is limited to aggregated statistical data to protect victim privacy and for unrestricted cases is limited to aggregated statistical data that at a minimum includes certain information.

SECTION 2. Amends Article 7B.001, Code of Criminal Procedure, by adding Subsection (a-1), as follows:

(a-1) Authorizes the state sexual assault coordinator described by Subchapter J-1, Chapter 432, Government Code, in addition to the persons having standing to file the application under Subsection (a) (relating to certain persons authorized to file an application for a protective order), to file an application with the consent of a person who is the victim for a protective order under Subchapter A on behalf of a person who is the victim of an offense under Section 22.011 or 22.021, Penal Code, alleged to have been committed by a person subject to Chapter 432, Government Code.

SECTION 3. Amends Article 7B.003, Code of Criminal Procedure, by adding Subsection (c), as follows:

(c) Provides that, for purposes of Article 7B.003 (Required Findings; Issuance of Protective Order), a military protective order issued to a person because the person was a reported victim of an offense under Section 22.011 or 22.021, Penal Code, constitutes reasonable grounds to believe that the applicant is the victim of sexual assault.

SECTION 4. Provides that, to the extent of any conflict, this Act prevails over another Act of the 87th Legislature, Regular Session, 2021, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 5. Effective date: September 1, 2021.