By:  Reynolds, et al. (Senate Sponsor - Miles) H.B. No. 3157

(In the Senate - Received from the House May 17, 2021; May 17, 2021, read first time and referred to Committee on Criminal Justice; May 22, 2021, reported favorably by the following vote: Yeas 7, Nays 0; May 22, 2021, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Whitmire        X

Huffman         X

Bettencourt     X

Birdwell        X

Hinojosa        X

Miles           X

Nichols         X

A BILL TO BE ENTITLED

AN ACT

relating to the criminal offenses of violation of civil rights of and improper sexual activity with persons in custody; increasing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Sections 39.04(a) and (b), Penal Code, are amended to read as follows:

(a)  An official of a correctional facility or juvenile facility, an employee of a correctional facility or juvenile facility, a person other than an employee who works for compensation at a correctional facility or juvenile facility, a volunteer at a correctional facility or juvenile facility, or a peace officer commits an offense if the person intentionally:

(1)  denies or impedes a person in custody in the exercise or enjoyment of any right, privilege, or immunity [~~knowing his conduct is unlawful~~]; or

(2)  engages in sexual contact, sexual intercourse, or deviate sexual intercourse with an individual in custody or, in the case of an individual in the custody of the Texas Juvenile Justice Department or placed in a juvenile facility, employs, authorizes, or induces the individual to engage in sexual conduct or a sexual performance.

(b)  An offense under Subsection (a)(1) is a felony of the third degree [~~Class A misdemeanor~~]. An offense under Subsection (a)(2) is a [~~state jail~~] felony of the second degree, except that an offense under Subsection (a)(2) is a felony of the first [~~second~~] degree if the offense is committed against:

(1)  an individual in the custody of the Texas Juvenile Justice Department or placed in a juvenile facility; or

(2)  a juvenile offender detained in or committed to a correctional facility.

SECTION 2.  The change in law made 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 on the date 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 occurred before that date.

SECTION 3.  This Act takes effect September 1, 2021.

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