

By: Blanco, et al.

S.B. No. 623

A BILL TO BE ENTITLED

AN ACT

relating to the investigation and punishment of certain sexual offenses, to protective orders issued on the basis of certain sexual offenses, to crime victims' compensation, and to the establishment of a state sexual offense prevention and response program for the Texas Military Department.

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

SECTION 1. Chapter 432, Government Code, is amended by adding Subchapter J-1 to read as follows:

SUBCHAPTER J-1. SEXUAL OFFENSE PREVENTION AND RESPONSE

Sec. 432.171. DEFINITIONS. In this subchapter:

(1) "Coordinator" means the state sexual offense response coordinator employed as provided by this subchapter.

(2) "Department" means the Texas Military Department.

(3) "Program" means the state sexual offense prevention and response program established as provided by this subchapter.

(4) "Restricted report" means a reporting option that allows a person who is a victim of an offense to confidentially disclose the offense to the coordinator and obtain medical treatment, including emergency care and counseling, without initiating an investigation. The report may not be referred to law enforcement officers or to command officials of the Texas military forces to initiate an official investigation unless the person who

1 reported the offense consents.

2 (5) "Texas military forces" means the Texas Army
3 National Guard, the Texas Air National Guard, and the Texas State
4 Guard.

5 (6) "Unrestricted report" means a reporting option
6 that allows a person who is a victim of an offense to report the
7 offense to the coordinator if the person does not request
8 confidentiality in reporting the offense or request a restricted
9 report.

10 Sec. 432.172. SEXUAL ASSAULT AND INDECENT ASSAULT. A
11 person subject to this chapter who commits an offense under Section
12 22.011, 22.012, or 22.021, Penal Code, is subject to investigation
13 under this subchapter and punishment under this chapter.

14 Sec. 432.173. STATE SEXUAL OFFENSE PREVENTION AND RESPONSE
15 PROGRAM; COORDINATOR. (a) To the extent state funds are available
16 for this purpose, the department shall establish a state sexual
17 offense prevention and response program and employ or designate a
18 state sexual offense response coordinator to perform victim
19 advocacy services, including ensuring that persons who are victims
20 of sexual assault or indecent assault receive appropriate
21 responsive care and understand the options available for reporting
22 the assault.

23 (b) The coordinator shall accept reports for alleged
24 offenses under Sections 22.011, 22.012, and 22.021, Penal Code,
25 made by a person who is a member of the Texas military forces
26 against an accused person who is a member of the Texas military
27 forces.

1 (c) The coordinator shall notify each person who is a victim
2 of a sexual assault reported under Subsection (b) of their
3 eligibility for crime victims' compensation under Chapter 56B, Code
4 of Criminal Procedure.

5 (d) The program and coordinator are within the department
6 but shall exercise the authority granted under this subchapter
7 independently from the chain of command within the department.

8 (e) The coordinator must allow a member of the Texas
9 military forces who is the victim of an alleged offense under
10 Section 22.011, 22.012, or 22.021, Penal Code, to:

11 (1) file with the coordinator a restricted or
12 unrestricted report or file a restricted report and later convert
13 that report to an unrestricted report;

14 (2) participate in the United States Department of
15 Defense Catch a Serial Offender program; and

16 (3) receive notice when the coordinator is made aware
17 that the accused person has been subsequently accused of an offense
18 under Section 22.011, 22.012, or 22.021, Penal Code, by a service
19 member or any other person.

20 Sec. 432.174. INVESTIGATION. (a) On the filing of an
21 unrestricted report alleging an offense under Section 22.011 or
22 22.021, Penal Code, the coordinator:

23 (1) shall refer the unrestricted report to the Texas
24 Rangers division of the Department of Public Safety for
25 investigation; and

26 (2) may refer the unrestricted report to the
27 appropriate local law enforcement agency for the initial collection

1 of evidence.

2 (b) A local law enforcement agency that initially collects
3 evidence for an unrestricted report under Subsection (a) shall
4 transfer all relevant evidence and information to the Texas Rangers
5 division of the Department of Public Safety on request of the
6 division.

7 (c) On the filing of an unrestricted report alleging an
8 offense under Section 22.012, Penal Code, the coordinator shall
9 refer the unrestricted report to the appropriate local law
10 enforcement agency for investigation.

11 (d) The Texas Rangers division of the Department of Public
12 Safety shall assign an officer of the Texas Rangers to investigate
13 reports referred to the division under this section. If the
14 investigation demonstrates probable cause that an offense under
15 Section 22.011 or 22.021, Penal Code, was committed by a person
16 subject to this chapter, the investigator shall refer the matter to
17 the appropriate local district attorney, criminal district
18 attorney, or county attorney with criminal jurisdiction.

19 Sec. 432.175. PROTECTIVE ORDER. In accordance with Article
20 7B.001(a-1), Code of Criminal Procedure, and with the consent of
21 the person who is the victim of an offense under Section 22.011,
22 22.012, or 22.021, Penal Code, alleged to have been committed by a
23 person subject to this chapter, the coordinator may file an
24 application for a protective order under Subchapter A, Chapter 7B,
25 Code of Criminal Procedure, on behalf of the victim.

26 Sec. 432.176. REPORT TO LEGISLATURE; LEGISLATIVE
27 OVERSIGHT. (a) The adjutant general or coordinator shall annually

1 submit a report on the activities under the program and the
2 activities of the department relating to sexual offense prevention
3 and response to:

- 4 (1) the governor;
- 5 (2) the lieutenant governor;
- 6 (3) the speaker of the house of representatives; and
- 7 (4) the chairs of the standing committees of the
8 senate and house of representatives with primary jurisdiction over
9 the department.

10 (b) Using state data collected by the coordinator, the
11 report must include for the preceding state fiscal year:

12 (1) the policies and procedures implemented by the
13 coordinator and adjutant general in response to incidents of sexual
14 assault and indecent assault;

15 (2) an assessment of the implementation and
16 effectiveness of the program and the policies and procedures on the
17 prevention and oversight of and the state's response to reports of
18 sexual assault and indecent assault within the department;

19 (3) an analysis of the number of incidents of sexual
20 assault and indecent assault involving members of the Texas
21 military forces; and

22 (4) deficiencies in the department's training of the
23 coordinator.

24 (c) Information provided in the report required under
25 Subsection (b)(3) for restricted cases is limited to aggregated
26 statistical data to protect victim privacy and for unrestricted
27 cases is limited to aggregated statistical data that at a minimum

1 includes:

2 (1) statistics relating to the types of offenses
3 investigated under this subchapter;

4 (2) statistics relating to victims and accused
5 persons;

6 (3) the status of investigations under this subchapter
7 and prosecutions under this chapter; and

8 (4) the status of administrative actions taken by the
9 department against members of the Texas military forces who are on
10 state active duty.

11 SECTION 2. Article 7B.001, Code of Criminal Procedure, is
12 amended by adding Subsection (a-1) to read as follows:

13 (a-1) In addition to the persons having standing to file the
14 application under Subsection (a), the state sexual offense response
15 coordinator described by Subchapter J-1, Chapter 432, Government
16 Code, with the consent of a person who is the victim of an offense
17 under Section 22.011, 22.012, or 22.021, Penal Code, alleged to
18 have been committed by a person subject to Chapter 432, Government
19 Code, may file an application for a protective order under this
20 subchapter on behalf of the victim.

21 SECTION 3. Article 7B.002, Code of Criminal Procedure, is
22 amended to conform to Chapter 955 (S.B. 194), Acts of the 86th
23 Legislature, Regular Session, 2019, and further amended to read as
24 follows:

25 Art. 7B.002. TEMPORARY EX PARTE ORDER. (a) If the court
26 finds from the information contained in an application for a
27 protective order that there is a clear and present danger of sexual

1 assault or abuse, indecent assault, stalking, trafficking, or other
2 harm to the applicant, the court, without further notice to the
3 alleged offender and without a hearing, may issue a temporary ex
4 parte order for the protection of the applicant or any other member
5 of the applicant's family or household.

6 (b) For purposes of this article, a military protective
7 order issued to a person because the person was a reported victim of
8 an offense under Section 22.011, 22.012, or 22.021, Penal Code,
9 constitutes sufficient information for a court to find there is a
10 clear and present danger of sexual assault or abuse or other harm to
11 the applicant.

12 SECTION 4. The Texas Military Department is required to
13 implement a provision of this Act only if the legislature
14 appropriates money specifically for that purpose. If the
15 legislature does not appropriate money specifically for that
16 purpose, the Texas Military Department may, but is not required to,
17 implement a provision of this Act using other appropriations
18 available for that purpose.

19 SECTION 5. To the extent of any conflict, this Act prevails
20 over another Act of the 87th Legislature, Regular Session, 2021,
21 relating to nonsubstantive additions to and corrections in enacted
22 codes.

23 SECTION 6. This Act takes effect September 1, 2021.