

By: Menéndez

S.B. No. 2060

A BILL TO BE ENTITLED

AN ACT

1
2 relating to creating an independent ombudsman within the Texas
3 Military Department.

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

5 SECTION 1. Section 437.003, Government Code, is amended by
6 adding Subsection (a-1) to read as follows:

7 (a-1) The governor, with the advice and consent of the
8 senate, shall appoint an ombudsman to a two-year term expiring
9 February 1 of each odd-numbered year. The ombudsman acts
10 independently of the department in the performance of the
11 ombudsman's powers and duties under this chapter and is subordinate
12 only to the governor in matters related to those duties.

13 SECTION 2. Subchapter B, Chapter 437, Government Code, is
14 amended by adding Sections 437.064, 437.065, and 437.066 to read as
15 follows:

16 Sec. 437.064. OMBUDSMAN: ADMINISTRATIVE ATTACHMENT; POWERS
17 AND DUTIES. (a) The ombudsman is administratively attached to the
18 department. The department shall provide office space and
19 administrative support services to the ombudsman.

20 (b) The department shall establish procedures to allow a
21 service member or department employee to communicate with the
22 ombudsman regarding a power or duty of the ombudsman. The
23 communication is confidential and privileged.

24 (c) The ombudsman may:

- 1 (1) receive complaints, including anonymous
2 complaints, alleging sexual harassment, sexual assault, assault,
3 and other wrongful conduct by a service member or department
4 employee;
- 5 (2) investigate a submitted complaint;
- 6 (3) access department records and facilities related
7 to a submitted complaint;
- 8 (4) subpoena the records of a private entity related
9 to a submitted complaint;
- 10 (5) as the ombudsman determines appropriate, refer a
11 complaint for investigation as a criminal charge or specification
12 under Chapter 432;
- 13 (6) track complaints through any disciplinary or
14 criminal process against the respondent and provide assistance to
15 the complainant through the process; and
- 16 (7) review a criminal investigation conducted by the
17 department to:
- 18 (A) ensure the investigation was conducted in an
19 accurate, unbiased, and thorough manner; and
- 20 (B) determine whether a pattern of complaints
21 exists suggesting that an issue affects more than one service
22 member or department employee.
- 23 (d) A complaint submitted to the ombudsman and any
24 investigation conducted by the ombudsman under this chapter are
25 independent of the system established under Chapter 432.
- 26 (e) Notwithstanding Subsection (c), the ombudsman may not
27 conduct an investigation of a complaint that is subject to an

1 ongoing investigation under Chapter 432.

2 Sec. 437.065. CONFIDENTIALITY OF INFORMATION SUBMITTED TO
3 OMBUDSMAN. (a) Except as provided by Subsection (b), the name,
4 address, and other personally identifiable information of a person
5 who files a complaint with the ombudsman, information generated in
6 the course of an investigation of a complaint, and confidential
7 records obtained by the ombudsman are confidential and not subject
8 to disclosure under Chapter 552.

9 (b) Information and records, other than confidential
10 information and records concerning a pending investigation or
11 criminal action under Chapter 432 or other law, may be disclosed to
12 an appropriate person if the ombudsman determines that disclosure
13 is:

14 (1) in the public interest;

15 (2) necessary to enable the ombudsman to perform a
16 duty under this chapter; or

17 (3) necessary to prevent an assault or sexual assault
18 of a service member or department employee.

19 Sec. 437.066. PARTNERSHIP WITH THE TEXAS DEPARTMENT OF
20 PUBLIC SAFETY. At the request of the service member the Texas
21 Military Department shall work with the Texas Rangers Division of
22 the Texas Department of Public Safety in referring the case to the
23 jurisdiction of the United States Department of Justice, Office of
24 the United States Attorney. The department shall establish
25 procedures of the referral process between the department, the
26 Texas Rangers, and the United States Department of Justice, Office
27 of the United States Attorney.

1 Sec. 437.067. OMBUDSMAN ANNUAL REPORT. Not later than
2 February 1 of each year, the ombudsman shall prepare and submit to
3 the governor, the lieutenant governor, the state auditor, and each
4 member of the legislature an annual report on the work of the
5 ombudsman during the preceding calendar year. The report must
6 include:

7 (1) the results of any review or investigation
8 undertaken by the ombudsman, subject to the confidentiality
9 provisions of this subchapter; and

10 (2) any recommendations of the ombudsman regarding the
11 duties of the ombudsman or the operations of the department.

12 SECTION 3. As soon as practicable after the effective date
13 of this Act, the governor shall appoint an initial ombudsman for the
14 Texas Military Department as required by Section 437.003(a-1),
15 Government Code, as added by this Act, to a term expiring February
16 1, 2023.

17 SECTION 4. This Act takes effect September 1, 2021.