

AN ACT

relating to the elimination of sexual assault against inmates confined in a facility operated by or under contract with the Texas Department of Criminal Justice.

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

SECTION 1. Article 57.02, Code of Criminal Procedure, is amended by adding Subsection (1) to read as follows:

(1) This article does not prohibit the inspector general of the Texas Department of Criminal Justice from disclosing a victim's identifying information to the department's ombudsperson if the victim is an inmate or state jail defendant confined in a facility operated by or under contract with the department.

SECTION 2. Article 57.03, Code of Criminal Procedure, is amended by adding Subsection (c-1) to read as follows:

(c-1) It is an exception to the application of this article that:

(1) the person who discloses the name, address, or telephone number of a victim is the inspector general of the Texas Department of Criminal Justice;

(2) the victim is an inmate or state jail defendant confined in a facility operated by or under contract with the department; and

(3) the person to whom the disclosure is made is the department's ombudsperson.

1 SECTION 3. Chapter 501, Government Code, is amended by
2 adding Subchapter F to read as follows:

3 SUBCHAPTER F. ELIMINATION OF SEXUAL ASSAULT AGAINST INMATES

4 Sec. 501.171. DEFINITIONS. In this subchapter:

5 (1) "Correctional facility" means a facility operated
6 by or under contract with the department.

7 (2) "Inmate" means an inmate or state jail defendant
8 confined in a facility operated by or under contract with the
9 department.

10 Sec. 501.172. APPOINTMENT OF OMBUDSPERSON. The board shall
11 appoint an ombudsperson to coordinate the department's efforts to
12 eliminate the occurrence of sexual assault in correctional
13 facilities. The ombudsperson shall report to the board.

14 Sec. 501.173. POWERS AND DUTIES OF OMBUDSPERSON. (a) The
15 ombudsperson shall:

16 (1) monitor department policies for the prevention of
17 sexual assault in correctional facilities;

18 (2) oversee the administrative investigation of
19 inmate complaints of sexual assault;

20 (3) ensure the impartial resolution of inmate
21 complaints of sexual assault; and

22 (4) collect statistics regarding all allegations of
23 sexual assault from each correctional facility in accordance with
24 the standards established by the National Prison Rape Elimination
25 Commission.

26 (b) The ombudsperson may collect evidence at correctional
27 facilities and interview inmates or employees at correctional

1 facilities in conducting an investigation of an inmate complaint of
2 sexual assault under this section.

3 (c) The ombudsperson may not require an inmate who reports a
4 sexual assault to assist in the investigation or prosecution of the
5 offense.

6 Sec. 501.174. DEPARTMENT TO ADOPT POLICY. The department
7 shall adopt a policy providing for:

8 (1) a designated administrator at each correctional
9 facility to post information throughout the facility describing how
10 an inmate may confidentially contact the ombudsperson regarding a
11 sexual assault;

12 (2) an inmate to write a confidential letter to the
13 ombudsperson regarding a sexual assault;

14 (3) employees at correctional facilities, on
15 notification of the occurrence of a sexual assault, to immediately:

16 (A) contact the ombudsperson and the office of
17 the inspector general; and

18 (B) ensure that the alleged victim is safe;

19 (4) the office of the inspector general, at the time
20 the office is notified of the sexual assault, to arrange for a
21 medical examination of the alleged victim to be conducted in
22 accordance with Article 56.06, Code of Criminal Procedure, or, if
23 an appropriate employee of the office of the inspector general is
24 not available at the time the office is notified of the sexual
25 assault, a qualified employee at the correctional facility to
26 conduct a medical examination of the alleged victim in accordance
27 with Article 56.06, Code of Criminal Procedure;

1 (5) a grievance proceeding under Section 501.008 based
2 on an alleged sexual assault to be exempt from any deadline
3 applicable to grievances initiated under that section; and

4 (6) each correctional facility to collect statistics
5 on all alleged sexual assaults against inmates confined in the
6 facility and to report the statistics to the ombudsperson.

7 Sec. 501.175. OMBUDSPERSON TO MAKE AVAILABLE TO PUBLIC
8 CERTAIN INFORMATION. The ombudsperson shall make available to the
9 public and appropriate state agencies:

10 (1) information regarding the powers and duties of the
11 ombudsperson; and

12 (2) statistical information regarding the total
13 number of allegations of sexual assault investigated by the
14 department, the outcome of the investigations, and any disciplinary
15 sanctions imposed as a result of the investigations.

16 Sec. 501.176. ANNUAL REPORT. (a) Not later than January 1
17 of each year, the ombudsperson shall submit a written report
18 regarding the activities of the ombudsperson during the preceding
19 fiscal year to:

20 (1) the governor;

21 (2) the lieutenant governor;

22 (3) the speaker of the house of representatives;

23 (4) the presiding officer of each house and senate
24 committee having jurisdiction over the department;

25 (5) the board;

26 (6) the executive director;

27 (7) the state auditor; and

1 (8) the comptroller.

2 (b) The report must include public information regarding:

3 (1) each investigation and monitoring activity
4 relating to sexual assault completed during the fiscal year by the
5 ombudsperson and the inspector general; and

6 (2) statistics collected by the ombudsperson
7 regarding allegations of sexual assault.

8 (c) The annual report must meet the financial reporting
9 requirements of the General Appropriations Act.

10 (d) Upon review of the findings of the annual report
11 submitted to the board, the board shall make recommendations on, or
12 implement policy that has the goal of, lowering the rate and
13 incidence of sexual assault against inmates at a correctional
14 facility. That policy will include methods to address a
15 correctional facility where the rate and incidence of sexual
16 assault against inmates has not shown improvement.

17 Sec. 501.177. STATE AUDITOR AUDITS, INVESTIGATIONS, AND
18 ACCESS TO INFORMATION NOT IMPAIRED. This subchapter or other law
19 related to the operation of the ombudsperson or the office of the
20 inspector general does not prohibit the state auditor from
21 conducting an audit, investigation, or other review or from having
22 full and complete access to all records and other information,
23 including witnesses and electronic data, that the state auditor
24 considers necessary for the audit, investigation, or other review.

25 Sec. 501.178. AUTHORITY OF STATE AUDITOR TO CONDUCT TIMELY
26 AUDITS NOT IMPAIRED. This subchapter or other law related to the
27 operation of the ombudsperson or the office of the inspector

1 general does not take precedence over the authority of the state
2 auditor to conduct an audit under Chapter 321 or other law.

3 SECTION 4. Subsection (c-1), Article 57.03, Code of
4 Criminal Procedure, as added by this Act, applies only to an offense
5 committed on or after the effective date of this Act. An offense
6 committed before the effective date of this Act is governed by the
7 law in effect when the offense was committed, and the former law is
8 continued in effect for that purpose. For purposes of this section,
9 an offense was committed before the effective date of this Act if
10 any element of the offense was committed before that date.

11 SECTION 5. Not later than December 1, 2008, the Texas
12 Department of Criminal Justice shall appoint an ombudsperson and
13 adopt a policy as required by Subchapter F, Chapter 501, Government
14 Code, as added by this Act.

15 SECTION 6. Not later than January 1, 2009, the ombudsperson
16 of the Texas Department of Criminal Justice shall submit the first
17 report required by Section 501.176, Government Code, as added by
18 this Act.

19 SECTION 7. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2007.

David Newkum

President of the Senate

Jim Caddick

Speaker of the House

I certify that H.B. No. 1944 was passed by the House on May 2, 2007, by the following vote: Yeas 147, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1944 on May 23, 2007, by the following vote: Yeas 144, Nays 0, 1 present, not voting.

Robert Haney
Chief Clerk of the House

I certify that H.B. No. 1944 was passed by the Senate, with amendments, on May 21, 2007, by the following vote: Yeas 31, Nays 0.

Aetsy Spill
Secretary of the Senate

APPROVED: 15 JUN 07

Date

Rick Peery
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
8 PM O'CLOCK

JUN 15 2007

Roger Williams
Secretary of State