

BILL ANALYSIS

Senate Research Center

H.B. 2283
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Criminal Justice
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Engrossed

DIGEST

Sexual intercourse between inmates and staff, even though it may be consensual, is considered by many to be a threat to the security of a correctional institution. Although any Texas Department of Criminal Justice employee found to have engaged in sexual intercourse with an inmate is subject to immediate termination of employment, there are concerns that a stronger deterrent is needed. Furthermore, the nature of the inmate/staff relationship has raised many doubts about the ability of an inmate to give true and effective consent. Forced sexual relations (sexual assault) by a public servant is currently a second degree felony, and sexual harassment by a public servant is a Class A misdemeanor.

H.B. 2283 would make it a criminal offense (state jail felony) for an employee of a correctional facility or a peace officer to have sex with an individual in custody.

PURPOSE

As proposed, H.B. 2283 provides that it is a criminal offense (state jail felony) for an employee of a correctional facility or a peace officer to have sex with an individual in custody.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 39.04, Penal Code, as follows:

Sec. 39.04. New heading: VIOLATIONS OF THE CIVIL RIGHTS OF PERSON IN CUSTODY; IMPROPER SEXUAL ACTIVITY WITH PERSON IN CUSTODY. Provides that an official or employee of a correctional facility or a peace officer commits a state jail felony if the official or employee intentionally engages in sexual intercourse or deviate sexual intercourse with an individual in custody. Defines "sexual intercourse" and "deviate sexual intercourse." Makes conforming changes.

SECTION 2. Effective date: September 1, 1997.

SECTION 3. Emergency clause.