

BILL ANALYSIS

Senate Research Center

S.B. 123
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Criminal Justice
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As Filed

DIGEST

Currently, there is no legislation which offers orchiectomy (castration) as a treatment for repeat sex offenders. In United States approximately 50 percent of sex offenders are rearrested. In European countries voluntary castration has been used as a method of treatment, and some recidivism rates for sex offenders have been measured between 2 and 11 percent. S.B. 123 authorizes voluntary orchiectomy for an inmate convicted of sexual offense under certain conditions.

PURPOSE

As proposed, S.B. 123 authorizes voluntary orchiectomy as a treatment for repeat sex offenders.

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 Chapter 501B, Government Code, by adding Sections 501.061 and 501.062, as follows:

Sec. 501.061. ORCHIECTOMY FOR CERTAIN SEX OFFENDERS. Authorizes a physician employed or retained by the Texas Department of Criminal Justice (department) to perform an orchiectomy on an inmate only under certain conditions and circumstances. Authorizes the inmate to change his decision to undergo an orchiectomy at any time and an inmate who withdraws his request to undergo a orchiectomy is ineligible to undergo the procedure. Requires the psychiatrist or psychologist to be a member of the staff of a medical facility under contract with the department or the institutional division of the department to treat inmates in the division. Provides that the physician who performs an orchiectomy on an inmate is not liable for an act or omission relating to the procedure unless negligence is found. Provides that the inmate's name is confidential and the department may use the inmate's name to notify the inmate's spouse if applicable. Requires the executive director of the Texas State Board of Medical Examiners to appoint a monitor to assist an inmate in his decision to have an orchiectomy. Requires the monitor to have experience in a relating field and to consult with the inmate for certain purposes. Provides that a monitor is not liable for damages arising from an act or omission unless the act or omission was intentional or grossly negligent.

Sec. 501.062. STUDY OF RATE OF RECIDIVISM AMONG SEX OFFENDERS. Requires the department to conduct a long-term study for at least 10 years after the date an orchiectomy is performed under Section 501.061 to measure the rate of recidivism among inmates who undergo the procedure. Requires the department to provide certain services to an inmate who undergoes an orchiectomy and participates in the long-term study. Requires the department to submit to the legislature a report dealing with the rate of recidivism for sex offenders released from the institutional division of the department who have undergone an orchiectomy and those sex offenders who have not. Authorizes the department to contract with a public or private entity to conduct the study required under this section.

SECTION 2. Amends Section 3, Article 37.07, Code of Criminal Procedure, by adding Subsection (h) to prohibit the state and the defendant from offering evidence before sentencing that the defendant plans to undergo an orchiectomy.

SECTION 3. Amends Section 11, Article 42.12, Code of Criminal Procedure, by adding Subsection (f) to prohibit a judge from requiring a defendant to undergo an orchiectomy as a condition of community supervision.

SECTION 4. Amends Section 8, Article 42.18, Code of Criminal Procedure, by adding Subsection (s) to prohibit a parole panel from requiring an inmate to undergo an orchiectomy as a condition of parole or release to mandatory supervision.

SECTION 5. Emergency clause.
Effective date: upon passage.