

BILL ANALYSIS

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C.S.S.B. 623
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Veteran Affairs & Border Security
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In the U.S. military, victims of military sexual assault can report offenses to a federally employed Sexual Assault Response Coordinator (SARC) who must alert the victim's commander, should the victim choose to pursue a criminal investigation in the armed forces. Service members may receive a Military Protective Order (MPO) after reporting an offense of sexual assault. MPOs are short-term orders issued by a unit commander against an active-duty service member under his or her command. The MPO ends when a victim is no longer active-duty.

Victims of military sexual assault often do not report their assault due to fear of social and professional retaliation, concerns of confidentiality breaches, and a lack of confidence in the military justice system. Texas has the largest state military force in the country with close to 24,000 members in the Texas Military Forces. The Texas Legislature has no jurisdiction over the U.S. military; however, Texas can set an example for the rest of the country in protecting its soldiers and increasing the resources available to victims of military sexual assault. The Texas Military Department (TMD) does not currently employ a Sexual Assault Response Coordinator. To pursue criminal charges, a victim of sexual assault in Texas military forces must rely on local law enforcement. Local law enforcement agencies often face jurisdictional challenges when investigating military sexual assault cases due to the nature of location unpredictability for service members. There is also no dedicated, independent criminal investigator for cases of military sexual assault. Currently, victims of sexual assault lose the protection of their MPO when they are no longer active duty or deployed.

S.B. 623 will support victims of sexual assault in the Texas Military Forces with additional resources and avenues for justice. S.B. 623 establishes a Sexual Assault Response Coordinator outside the chain of command to receive reports of sexual assault and provide victim advocacy services. S.B. 623 also designates a Texas Ranger under the Department of Public Safety as an independent criminal investigator for allegations of sexual assault in the Texas Military Forces. S.B. 623 establishes that military protective orders are sufficient grounds to grant a civilian ex parte protective orders for victims of military sexual assault. The bill also provides the victim with certain notifications of rights and resources. The bill also requires the TMD to provide an annual report to the legislature related to sexual assault prevention and response activities.

(Original Author's/ Sponsor's Statement of Intent)

C.S.S.B. 623 amends current law 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.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 432, Government Code, by adding Subchapter J-1, as follows:

SUBCHAPTER J-1. SEXUAL OFFENSE PREVENTION AND RESPONSE

Sec. 432.171. DEFINITIONS. Defines "coordinator," "department," "program," "restricted report," "Texas military forces," and "unrestricted report."

Sec. 432.172. SEXUAL ASSAULT AND INDECENT ASSAULT. Provides that a person subject to Chapter 432 (Texas Code of Military Justice) who commits an offense under Section 22.011 (Sexual Assault), 22.012 (Indecent Assault), or 22.021 (Aggravated Sexual Assault), Penal Code, is subject to investigation under this subchapter and punishment under Chapter 432.

Sec. 432.173. STATE SEXUAL OFFENSE PREVENTION AND RESPONSE PROGRAM; COORDINATOR. (a) Requires the Texas Military Department (TMD), to the extent state funds are available for this purpose, to establish a state sexual offense prevention and response program and employ or designate a state sexual offense response coordinator (coordinator) to perform victim advocacy services, including ensuring that persons who are victims of sexual assault or indecent assault receive appropriate responsive care and understand the options available for reporting the assault.

(b) Requires the coordinator to accept reports for alleged offenses under Sections 22.011, 22.012, and 22.021, Penal Code, made by a person who is a member of the Texas military forces against an accused person who is a member of the Texas military forces.

(c) Requires the coordinator to notify each person who is a victim of a sexual assault reported under Subsection (b) of their eligibility for crime victims' compensation under Chapter 56B (Crime Victims' Compensation), Code of Criminal Procedure.

(d) Provides that the program and coordinator are within TMD but are required to exercise the authority granted under this subchapter independently from the chain of command within TMD.

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

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

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

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

Sec. 432.174. INVESTIGATION. (a) Provides that the coordinator, on the filing of an unrestricted report alleging an offense under Section 22.011 or 22.021, Penal Code:

(1) is required to refer the unrestricted report to the Texas Rangers division of the Department of Public Safety of the State of Texas (DPS) for investigation; and

(2) is authorized to refer the unrestricted report to the appropriate local law enforcement agency for the initial collection of evidence.

(b) Requires a local law enforcement agency that initially collects evidence for an unrestricted report under Subsection (a) to transfer all relevant evidence and information to the Texas Rangers division of DPS on request of the division.

(c) Requires the coordinator, on the filing of an unrestricted report alleging an offense under Section 22.012, Penal Code, to refer the unrestricted report to the appropriate local law enforcement agency for investigation.

(d) Requires the Texas Rangers division of DPS to assign an officer of the Texas Rangers to investigate reports referred to the division under this section. Requires the investigator, if the investigation demonstrates probable cause that an offense under Section 22.011 or 22.021, Penal Code, was committed by a person subject to this chapter, to refer the matter to the appropriate local district attorney, criminal district attorney, or county attorney with criminal jurisdiction.

Sec. 432.175. PROTECTIVE ORDER. Authorizes the coordinator, in accordance with Article 7B.001(a-1), Code of Criminal Procedure, and with the consent of the person who is the victim of an offense under Section 22.011, 22.012, or 22.021, Penal Code, alleged to have been committed by a person subject to this chapter, to file an application for a protective order under Subchapter A (Protective Order for Victims of Sexual Assault or Abuse, Stalking, or Trafficking), Chapter 7B (Protective Orders), Code of Criminal Procedure, on behalf of the victim.

Sec. 432.176. REPORT TO LEGISLATURE; LEGISLATIVE OVERSIGHT. (a) Requires the adjutant general or coordinator to annually submit a report on the activities under the program and the activities of TMD relating to sexual offense prevention and response to the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the standing committees of the senate and house of representatives with primary jurisdiction over TMD.

(b) Requires that the report, using state data collected by the coordinator, include for the preceding state fiscal year:

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

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

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

(4) deficiencies in TMD's training of the coordinator.

(c) Provides that information provided in the report required under Subsection (b)(3) for restricted cases is limited to aggregated statistical data to protect victim privacy and for unrestricted cases is limited to aggregated statistical data that at a minimum includes certain information.

SECTION 2. Amends Article 7B.001, Code of Criminal Procedure, by adding Subsection (a-1), as follows:

(a-1) Authorizes the state sexual assault coordinator described by Subchapter J-1, Chapter 432, Government Code, with the consent of a person who is the victim of an offense under Section 22.011, 22.012, or 22.021, Penal Code, in addition to the persons having standing to file the application under Subsection (a) (relating to certain persons

authorized to file an application for a protective order), to file an application for a protective order under Subchapter A on behalf of the victim.

SECTION 3. Amends Article 7B.002, Code of Criminal Procedure, to conform to Chapter 955 (S.B. 194), Acts of the 86th Legislature, Regular Session, 2019, and further amends it, as follows:

Art. 7B.002. TEMPORARY EX PARTE ORDER. (a) Creates this subsection from existing text. Authorizes a court, if the court finds from the information contained in an application for a protective order that there is a clear and present danger of certain offenses, including indecent assault, without further notice to the alleged offender and without a hearing, to issue a temporary ex parte order for the protection of the applicant or any other member of the applicant's family or household.

(b) Provides that, for purposes of Article 7B.002, a military protective order issued to a person because the person was a reported victim of an offense under Section 22.011, 22.012, or 22.021, Penal Code, constitutes sufficient information for a court to find there is a clear and present danger of sexual assault or abuse or other harm to the applicant.

SECTION 4. Provides that TMD is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. Provides that if the legislature does not appropriate money specifically for that purpose, TMD is authorized, but not required to, implement a provision of this Act using other appropriations available for that purpose.

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

SECTION 6. Effective date: September 1, 2021.