

AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 716**

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**Introduced by Senator Lara**

February 22, 2013

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*An act ~~relating to immigration~~. to add Section 2636.5 to the Penal Code, relating to inmates.*

LEGISLATIVE COUNSEL'S DIGEST

SB 716, as amended, Lara. ~~Immigration detainees: civil rights.~~  
*Inmates: civil rights.*

*Existing law requires the Department of Corrections and Rehabilitation to institute certain practices to prevent sexual violence and promote inmate and ward safety in the Department of Corrections and Rehabilitation.*

*This bill would require the department and the sheriff of a county jail to create a safe environment free from sexual abuse for inmates or arrestees, including those inmates or arrestees with a United States Immigration and Customs Enforcement hold, by doing certain things, including, among other things, establishing a zero-tolerance policy and creating specific policies and procedures prohibiting employee sexual misconduct toward inmates or arrestees, prohibiting sexual misconduct between either arrestees or inmates, or both, and requiring mandatory reporting by employees of all allegations of sexual misconduct. The department and the sheriff would also be required to establish a process for how inmates or arrestees are screened during an initial intake assessment to ensure their safety from harm or harassment, or to keep them from harming others, including training of employees in identifying whether the inmate or arrestee requires a separate detention area for his or her own safety, privacy during screening, or some other*

*accommodation as a result of being a member of the lesbian, gay, bisexual, transgender, and queer communities.*

*Because this bill would require a higher level of service from county jails, it would create a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

~~Under the United States Constitution, the federal government has the power to regulate immigration.~~

~~This bill would state the intent of the Legislature to enact legislation to ensure any prison, jail, or detention center in California owned or contracted by the United States Immigration and Customs Enforcement protects the civil rights of persons who are members of the lesbian, gay, bisexual, or transgender community.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 2636.5 is added to the Penal Code, to  
2     read:  
3     2636.5. The Department of Corrections and Rehabilitation  
4     and the sheriff of a county jail shall create a safe environment free  
5     from sexual abuse for inmates or arrestees, including those inmates  
6     or arrestees with a United States Immigration and Customs  
7     Enforcement hold, by doing all of the following:  
8     (a) Establishing a zero-tolerance policy for sexual abuse.  
9     (b) Creating specific policies and procedures prohibiting  
10    employee sexual misconduct toward inmates or arrestees,  
11    prohibiting sexual misconduct between either arrestees or inmates,  
12    or both, and requiring mandatory reporting by employees of all  
13    allegations of sexual misconduct.  
14    (c) Establishing a process for how inmates or arrestees are  
15    screened during an initial intake assessment to ensure their safety  
16    from harm or harassment, or to keep them from harming others.

1 *The process established pursuant to this subdivision shall include*  
2 *training of employees in identifying whether the inmate or arrestee*  
3 *requires a separate detention area for his or her own safety,*  
4 *privacy during screening, or some other accommodation, as a*  
5 *result of being a member of the lesbian, gay, bisexual, transgender,*  
6 *and queer communities.*

7 *(d) Training employees, volunteers, contractors, visitors, and*  
8 *other individuals who have contact with inmates or arrestees*  
9 *regarding the department or the county sheriff's policies and*  
10 *procedures relating to sexual assault identification and prevention,*  
11 *and how to report allegations of sexual misconduct.*

12 *(e) Advising all inmates or arrestees regarding the*  
13 *zero-tolerance policy during an initial intake process.*

14 *(f) For the purposes of this section, "sexual misconduct" means*  
15 *all incidents of willing or unwilling sexual contact, and all*  
16 *incidents of sexual activity, including, but not limited to, sexual*  
17 *intercourse, sodomy, oral copulation, and other forms of sexual*  
18 *contact.*

19 *SEC. 2. If the Commission on State Mandates determines that*  
20 *this act contains costs mandated by the state, reimbursement to*  
21 *local agencies and school districts for those costs shall be made*  
22 *pursuant to Part 7 (commencing with Section 17500) of Division*  
23 *4 of Title 2 of the Government Code.*

24 ~~SECTION 1. It is the intent of the Legislature to enact~~  
25 ~~legislation to ensure any prison, jail, or detention center in~~  
26 ~~California owned or contracted by the United States Immigration~~  
27 ~~and Customs Enforcement protects the civil rights of persons who~~  
28 ~~are members of the lesbian, gay, bisexual, or transgender~~  
29 ~~community.~~