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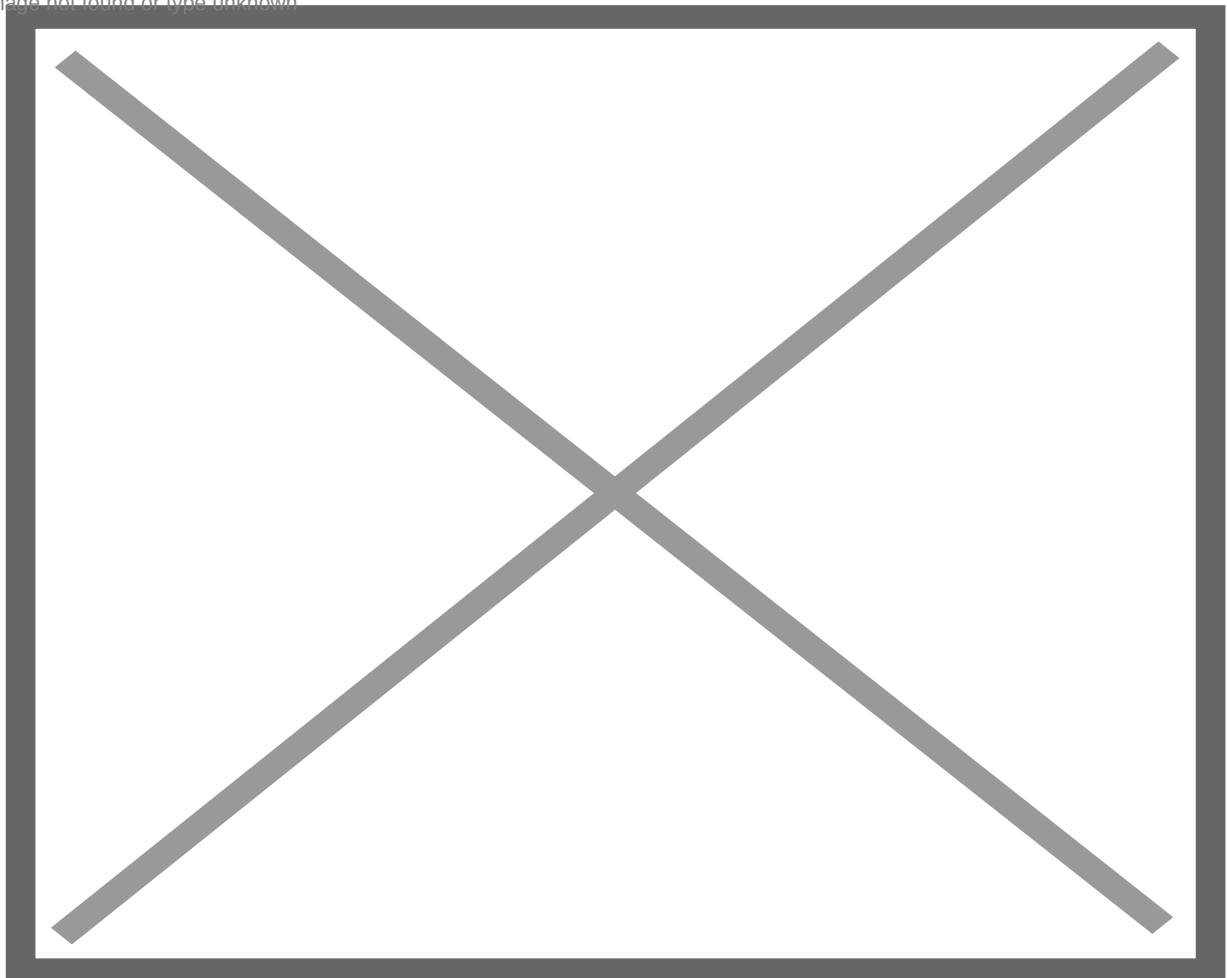
Bill Banning Law Enforcement From Sexual Conduct With Individuals in Custody Clears First Hurdle Amid Legal Concerns Over Scope

Sponsored by Senator Ray Fonseca, Bill 36-0024 aims to prohibit law enforcement from engaging in sexual conduct with individuals in custody, but legal experts and officials are urging amendments to clarify definitions and expand its scope.

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A V.I. Police Department unit.

Senator Ray Fonseca's bill that declares a person incapable of consenting to sexual relations in police custody cleared its first legislative hurdle, after receiving favorable consideration from the Committee of Homeland Security, Justice and Public Safety.

[Bill 36-0024](#) “prohibits law enforcement officers from engaging in sexual conduct with individuals while they are detaining, arresting or holding in custody, including during traffic stops or questioning, pursuant to an investigation,” explained Mr. Fonseca. According to the St. Thomas legislator, “it recognizes a basic truth that power dynamics do matter when someone is in custody... There should be no gray area when it comes to power coercion and sexual exploitation.”

For Deborah Hodge, Acting Chief of Police for the St. Thomas/St. John/Water Island district, the bill is “necessary for closing a critical legal gap, but also aligns the personnel with existing federal law and best practices.” The V.I. Police Department already enforces “associated policies.” Like Mr. Fonseca, she agreed that “trust between law enforcement and the community is a foundation of effective policing.” Chief Hodge welcomed the opportunity to “eliminate any ambiguity in the law.”

Also invited to testify on the bill was Julie Smith-Todman, Chief Territorial Public Defender. Her office adopted a “neutral position on the overall goal of the legislation.” She urged the author of the bill to specify “what it means to be in the custody of police or law enforcement.” Ms. Smith-Todman warned that “there is some danger that without a discrete definition for those terms, the application of current standards would result in undesirable effects.” She considered the current iteration of the bill “limited.”

Attorney General Gordon Rhea, through his analysis of the bill, indicated that it “does not create a crime that can be violated. Rather, it focuses on consent.” The bill “does not include any penalties.” A law enforcement officer, therefore, “would be subject to the penalties for rape and related offenses.” He, like Ms. Smith-Todman, encouraged Mr. Fonseca to stamp out any ambiguity in the bill. Mr. Fonseca, in turn, has promised several amendments to the bill, presumably during its next committee stage.

“I think it would be interesting to consider the drafting of a proposed criminal offense relating to this kind of conduct,” Mr. Rhea told Senator Angel Bolques Jr. He stressed that the bill only specifies that “the consent defense cannot be used by the accused.”

Senator Avery Lewis raised the idea of “companion legislation to ensure law enforcement officers found in violation of this law face decertification and disqualification from future service.” Mr. Rhea said that may depend on “the nature of the offense and exactly what the sexual contact was.”

One of the pending amendments to Bill 36-0024, recommended by the VIPD and Senator Kenneth Gittens, will change the language to encompass all law enforcement, not just police officers. “We’re forward-thinking so that we can prevent these things from happening,” remarked Senator Gittens.

After its favorable vote, the bill will next be considered by the Committee on Rules and Judiciary.