

BILL ANALYSIS

C.S.H.B. 2385
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, it is a defense to prosecution for indecency with a child and sexual assault if the contact was consensual and the defendant was not more than three years older than the victim, who must have been at least 14 years of age, among other conditions. Due to the ambiguity of the Code many young people who engage in sexual activities with a partner who has been deceiving about his or her age receive the permanent label of a sex offender. These individuals often go on to become otherwise upstanding citizens, but must carry the sex offender label throughout the remainder of their adult lives. C.S.H.B. 2385 addresses this issue by creating a new defense to prosecution for those whom have unknowingly engaged in sexual activities with a minor.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

This bill states that in an indecency with a child or sexual assault prosecution it will be a defense to prosecution if a victim is the opposite sex of the actor, fourteen years of age or older and the actor under twenty years of age at the time of the incident, the contact was consensual, and the actor through mistake formed a reasonable belief that the victim was no more than three years younger than him or herself. This change in the law would apply only to those whom commit offenses on or after the effective date of this Act. It does not pertain to those offenses committed before the effective date of this Act.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 2385 differs from the original to include the defense to prosecution for sexual assault offenses. The substitute also includes language to specify that the act was consensual and the actor did not use force, duress, or threat to cause the victim to participate.