

BILL ANALYSIS

H.B. 8
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Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In 2005, 9-year-old Jessica Lunsford was abducted from her Florida home, sexually assaulted, and murdered by a convicted sex offender. Since then, states have been rallying to enact stricter penalties for sex crimes committed against children. The 80th Legislative Session provides Texas the opportunity to follow these examples and take steps to keep children safe from predators. House Bill 8 would enact more stringent measures to be used when dealing with persons who commit sexually violent offenses against children.

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

The bill makes significant changes to the Code of Criminal Procedure, the Government Code, Health and Safety Code, and the Penal Code which affects the prosecution of sex offenders.

The statute of limitations for the prosecution of a sexually violent offense against a person younger than 17 years is set at 20 years from the victim's 18th birthday.

The bill would deny parole to those convicted of an offense for which punishment is increased under Section 12.42(c)(2) of the Penal Code or for an offense under Section 3g(a)(1)(C), (D), or (E), Article 42.12 of the Code of Criminal Procedure if the victim was younger than 14 when the crime was committed.

The bill makes technical and conforming changes to clarify that those convicted of a sexually violent offense against a victim younger than 14 years old are not eligible for parole and not eligible to receive time off for good conduct. House Bill 8 also adds a first degree felony conviction of sexual performance by a child to the list of offenses for which an inmate is not eligible for release to mandatory supervision if they are currently serving or have been previously convicted of any of those offenses.

The Act requires that a tracking service to which someone is required to submit under Section 841.082(a)(5), Health and Safety Code, must be able to track their location in real time, and also provide real-time and cumulative reports of the person's location to a case manager.

House Bill 8 defines the term "sexually violent offense" and includes in the definition indecency with a child as defined by Section 21.11(a)(1), Penal Code, as well as sexual assault, aggravated sexual assault, sexual performance by a child, and aggravated kidnapping if the intent is to violate or abuse the victim sexually. The definition also includes burglary if the intent was to commit indecency with a child, sexual assault, aggravated sexual assault, or aggravated kidnapping if the intent of the kidnapping was to violate or abuse the victim sexually.

Under this Act, indecency with a child and sexual performance by a child are added to the list of offenses that are punishable by life in prison if the defendant has previously been convicted of an offense as described in Section 12.42(c)(2)(B) of the Penal Code. Additionally, a sexually violent offense, as defined by the bill would be punishable as a capital felony if the victim was younger than 14, and if the defendant has been previously convicted of a sexually violent offense against a person younger than 14, or including substantially similar crimes committed in other

states. The bill makes conforming changes to the jury instructions necessary to implement the addition of sexually violent crimes, as defined in this bill, as capital felonies.

The bill also amends the Penal Code to say that in cases in aggravated kidnapping where the victim of the offense was younger than 14 years old, the defendant may not raise the issue at the punishment phase as to whether he voluntarily released the victim in a safe place.

Indecency with a child under Subsection (a)(1) of Section 21.11, Penal Code, becomes a first degree felony if the victim was younger than 14 years old. Sexual performance by a child as described by Sections 43.25(b) and (d), Penal Code, also become a first degree felony if the victim was younger than 14 years old.

The bill also stipulates that changes made to the law apply only to offenses committed on or after September 1, 2007; that the changes relating to the monitoring of offenders applies to those who on or after the effective date are serving a sentence in the Texas Department of Criminal Justice or who are committed to the Department of State Health Services for an offense committed before, on, or after the effective date; and that the changes relating to the statute of limitations, Section 12.01, Code of Criminal Procedure, do not apply to offenses that were previously barred by limitation before the effective date of the bill.

EFFECTIVE DATE

September 1, 2007.