

BILL ANALYSIS

Senate Research Center
80R17449 JRH-D

C.S.H.B. 1987
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State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law provides that a person commits a criminal offense if he or she knowingly possesses another person's official vote-by-mail ballot or another person's official vote-by-mail carrier envelope. However, unless the person possesses the ballot or carrier envelope with the intent to defraud the voter or the appropriate election authority, a person who possesses the ballot or carrier envelope of another may be able to avoid conviction if he or she can establish at least one of the specific affirmative defenses to prosecution.

C.S.H.B. 1987 provides that conduct that is currently covered by certain affirmative defenses to prosecution regarding a person committing a criminal offense by knowingly possessing another person's official vote-by-mail ballot or another person's official vote-by-mail carrier envelope would no longer be subject to criminal prosecution.

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 Section 86.006(f), Election Code, by amending Subsection (f) and adding Subsection (i), as follows:

(f) Provides exceptions of the application of this subsection (providing that a person commits an offense if the person knowingly possesses an official ballot or official carrier envelope provided under this code or another) for certain persons, rather than providing certain affirmative defenses to prosecution under this subsection.

(i) Provides that in the prosecution of an offense under Subsection (f):

(1) the prosecuting attorney is not required to negate the applicability of the provisions of Subsections (f)(1)-(6) in the accusation charging commission of an offense;

(2) the issue of the applicability of a provision of Subsection (f)(1), (2), (3), (4), (5), or (6) is not submitted to the jury unless evidence of that provision is admitted; and

(3) if the issue of the applicability of a provision of Subsection (f)(1), (2), (3), (4), (5), or (6) is submitted to the jury, requires the court to charge that a reasonable doubt on the issue requires that the defendant be acquitted.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2007.