

BILL ANALYSIS

Senate Research Center
81R736 KEL-D

H.B. 549
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Criminal Justice
5/8/2009
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, it is not an affirmative defense to prosecution for an offense of indecency with a child, an offense of sexual assault of a child, an offense of engaging in an improper relationship between an educator and a student, or an offense relating to improper sexual activity with a person under the supervision of the Texas Department of Criminal Justice, the Texas Youth Commission, or a local juvenile probation department that the actor was the spouse of the child at the time of the offense.

H.B. 549 amends current law relating to an affirmative defense to prosecution for certain sex offenses.

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 21.11, Penal Code, by amending Subsection (a) and adding Subsection (b-1), as follows:

(a) Provides that a person commits an offense if, with a child younger than 17 years of age, rather than with a child younger than 17 years and not the person's spouse, whether the child is of the same or opposite sex, the person commits certain acts.

(b-1) Provides that it is an affirmative defense to prosecution under this section that the actor was the spouse of the child at the time of the offense.

SECTION 2. Amends Section 21.12, Penal Code, by amending Subsection (a) and adding Subsection (b-1), as follows:

(a) Provides that an employee of a public or private primary or secondary school commits an offense if the employee engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person who is enrolled in a public or private primary or secondary school at which the employee works, rather than at which the employee works and who is not the employee's spouse.

(b-1) Provides that it is an affirmative defense to prosecution under this section that the actor was the spouse of the enrolled person at the time of the offense.

SECTION 3. Amends Section 22.011(c)(1), Penal Code, to redefine "child."

SECTION 4. Amends Section 22.011(e), Penal Code, to provide that it is an affirmative defense to prosecution under Subsection (a)(2) (relating to an offense if a person commits certain acts) that the actor was the spouse of the child at the time of the offense or that the actor meets certain conditions. Makes nonsubstantive changes.

SECTION 5. Amends Section 39.04, Penal Code, by amending Subsection (f) and adding Subsection (h), as follows:

(f) Makes a conforming change.

(h) Provides that it is an affirmative defense to prosecution under Subsection (f) that the actor was the spouse of the individual at the time of the offense.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 2009.