

BILL ANALYSIS

C.S.H.B. 718
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2007, the 80th Legislature, Regular Session, enacted H.B. 8, commonly known as Jessica's Law, which revised several statutes applicable to sex offenders. As is common with many omnibus bills that are a product of conference committees, H.B. 8 was passed prior to the discovery of technical drafting errors, including conforming amendments made by Article 3 of the bill.

C.S.H.B. 718 corrects certain unintentional conflicts, errors, or omissions created by the passage of H.B. 8, 80th Legislature, Regular Session, 2007, and modifies provisions making a defendant ineligible for community supervision if the defendant was convicted of an offense of indecency with a child or an offense of aggravated kidnapping.

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

C.S.H.B. 718 reenacts and amends Section 4(d), Article 42.12, Code of Criminal Procedure, as amended by Chapters 593 (H.B. 8) and 1205 (H.B. 1678), Acts of the 80th Legislature, Regular Session, 2007, to make a person convicted of indecency with a child ineligible for jury recommended community supervision regardless of the age of the child, rather than if the victim was younger than 14 years of age at the time the offense was committed. The bill establishes that provisions making a person convicted of an offense of indecency with a child or an offense involving sexual performance by a child ineligible for community supervision apply to a conviction other than a conviction for which the judgment in the case contains an affirmative finding that at the time of the offense the defendant was younger than 19 years of age and the victim was at least 13 years of age and the conviction is based solely on the age of the defendant and the victim or intended victim. The bill clarifies that a defendant convicted of an offense of aggravated kidnapping is ineligible for community supervision if the victim of the offense was younger than 17 years of age, rather than younger than 14 years of age, at the time the offense was committed and the actor committed the offense with the intent to violate or abuse the victim sexually. The bill removes a provision that rendered a defendant ineligible for community supervision for the sexual assault of a victim who was younger than 14 years of age at the time the offense was committed.

C.S.H.B. 718 reenacts and amends Section 3g(a), Article 42.12, Code of Criminal Procedure, as amended by Chapters 405 (S.B. 877) and 593 (H.B. 8), Acts of the 80th Legislature, Regular Session, 2007, to make a technical correction.

C.S.H.B. 718 amends the Government Code to clarify that provisions requiring an extraordinary vote of the members of the Board of Pardons and Paroles to release on parole an inmate convicted of an offense of indecency with a child or aggravated assault refer to an inmate who is

not ineligible for parole.

C.S.H.B. 718 amends the Code of Criminal Procedure, Government Code, and Penal Code to make technical corrections.

C.S.H.B. 718 establishes that, to the extent of any conflict, the provisions of this bill prevail over another Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes.

C.S.H.B. 718 repeals Section 508.117(g)(2-a), Government Code, to make a technical correction.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 718 omits a provision in the original making a defendant convicted of an offense of sexual assault ineligible for community supervision if the victim of the offense was younger than 17 years of age at the time the offense was committed. The substitute adds a provision not included in the original establishing that provisions making a person convicted of an offense of indecency with a child or an offense involving the sexual performance by a child ineligible for community supervision apply to a conviction other than a conviction for which the judgment in the case contains an affirmative finding that the offense was an aged-based offense.

C.S.H.B. 718 differs from the original by adding a clarification that provisions requiring an extraordinary vote to release on parole an inmate convicted of an offense of indecency with a child or aggravated assault refer to an inmate who is not ineligible for parole. The substitute adds a provision not included in the original establishing that, to the extent of any conflict, the provisions of this bill prevail over another Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes. The substitute adds a Code of Criminal Procedure provision not in the original making a technical correction.