

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2328
By: Guillen et al. (Carona)
Criminal Justice
5/21/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, Texas law allows certain offenses to be tried at the next higher category of offense if it is shown at trial that the offense was committed against an elderly individual. However, these offenses do not include forgery, credit and debit card abuse, or fraudulent use of identifying information. This often leads prosecutors to try offenders under an alternative offense.

C.S.H.B. 2328 amends current law relating to regulating employment at or by certain facilities serving the elderly or persons with disabilities and to certain acts committed against those individuals.

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 250.006(a), Health and Safety Code, to prohibit a person for whom the facility is entitled to obtain criminal history record information from being employed in a facility if the person has been convicted of certain offenses listed in this subsection, including an offense under Section 36.06 (Obstruction or Retaliation), Penal Code.

SECTION 2. Amends the heading to Chapter 253, Health and Safety Code, to read as follows:

CHAPTER 253. CERTAIN EMPLOYEE MISCONDUCT; REGISTRY

SECTION 3. Amends Section 253.001(5), Health and Safety Code, to redefine "reportable conduct."

SECTION 4. Amends Section 32.21, Penal Code, by amending Subsection (c) and adding Subsection (e-1), as follows:

(c) Provides that except as provided by, rather than in, Subsections (d) (relating to an offense designated as a state jail felony), (e) (relating to an offense designated as a felony of the third degree), and (e-1), an offense under this section is a Class A misdemeanor. Makes conforming changes.

(e-1) Provides that an offense under this section is increased to the next higher category of offense if it is shown on the trial of the offense that the offense was committed against an elderly individual as defined by Section 22.04 (Injury to a Child, Elderly Individual, or Disabled Individual).

SECTION 5. Amends Section 32.31(d), Penal Code, to provide that an offense under this section is a state jail felony, except that the offense is a felony of the third degree if it is shown on the trial of the offense that the offense was committed against an elderly individual as defined by Section 22.04.

SECTION 6. Amends Section 32.51, Penal Code, by adding Subsection (c-1), to provide that an offense described for purposes of punishment by Subsections (c)(1)-(3) (related to an offense designated as a state jail felony, a felony of the third degree, or a felony of the second degree) is

increased to the next higher category of offense if it is shown on the trial of the offense that the offense was committed against an elderly individual as defined by Section 22.04.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 2009.