

BILL ANALYSIS

C.S.H.B. 2846
By: Riddle
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Because children are often ineffective witnesses in criminal proceedings involving sexual abuse due to the pressure of testifying in front of strangers and the defendant, Texas law allows the testimony of the outcry witness, the first adult the child informed about the alleged acts, to be used as evidence in criminal proceedings. This law applies to an outcry witness of the victim only. The purpose of this law is to allow the testimony of an outcry witness of a child other than the victim who has been allegedly assaulted by the defendant to be used as evidence in criminal proceedings. This information would give the jury a better understanding of the defendant's history and could result in a different verdict. This bill would also extend the applicability of this law from children younger than 12 to children younger than 14 years of age.

C.S.H.B. 2846 applies the provision relating to the admissibility of a hearsay statement of a child abuse victim to a proceeding in the prosecution of a sexual offense, assaultive offense, prohibited sexual conduct, sexual performance by a child, or criminal attempt of these offenses committed against a child younger than 14 years of age. The bill adds certain statements describing actions other than the alleged offense that were committed against the child victim or another child to be admissible as evidence.

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. 2846 amends the Code of Criminal Procedure to add the offense of the criminal attempt of a sexual offense to a list of offenses including assaultive offenses, sexual offenses, prohibited sexual conduct, or sexual performance by a child, to which provisions relating to the admissibility of a hearsay statement of a child abuse victim apply in a proceeding in the prosecution of such offense. The bill increases from 12 years of age to 14 years of age the maximum age of a child victim whose hearsay statement is admissible in a proceeding in the prosecution of one of those offenses.

C.S.H.B. 2846 adds a statement offered during the punishment phase of the proceeding that describes an alleged crime, wrong, or act other than the alleged offense that is described as one of the list of offenses, is allegedly committed by the defendant against the child who is the victim of the offense or another child younger than 14 years of age, and is otherwise admissible as evidence under Texas law or the Texas Rules of Evidence to the statements to which the admissibility of such a child abuse victim's hearsay statement applies. The bill provides that the admissibility provisions apply to such a statement that was made by the child against whom the extraneous crime, wrong, or act was allegedly committed and was made to the first person, 18

years of age or older, other than the defendant, to whom the child made a statement about the extraneous crime, wrong, or act.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2846 adds a provision not in the original requiring a child's statement describing an alleged crime, wrong, or act other than the alleged offense to be offered during the punishment phase of the proceeding for the provisions regarding the admissibility of a child abuse victim's hearsay statement to apply to that statement.