

BILL ANALYSIS

C.S.H.B. 3751
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Laws involving no-contact orders are necessary in child abuse cases to prevent the revictimization of the child, allow the non-offending parent to make protective choices, protect the integrity of the investigation, and add a proactive mechanism to the arraignment process.

C.S.H.B. 3751 addresses each of these important concerns by making no-contact orders a mandatory bond condition in child abuse cases. Additionally, it ensures that judges have a full spectrum of options in place to address defendants who violate no-contact orders.

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. 3751 amends the Code of Criminal Procedure to require, rather than authorize, a magistrate, except as otherwise provided by law, to require as a condition of bond for a defendant charged with a sexual offense, an assaultive offense, or an offense involving prohibited sexual conduct or sexual performance by a child that the defendant not directly communicate with the alleged victim or go near a residence, school, or other location, as specifically described in the bond, frequented by the alleged victim. The bill makes provisions regarding bail conditions where a child is the alleged victim applicable to a defendant charged with such an offense if committed against a child younger than 14 years of age, rather than 12 years of age or younger.

C.S.H.B. 3751 authorizes the taking into custody and the denial of release on bail pending trial of a defendant who is charged with a sexual offense or an offense involving prohibited sexual conduct or sexual performance by a child, who violates a condition of bond, and whose bail in the case is revoked for the violation, if, following a hearing, a judge or magistrate determines by a preponderance of the evidence that the defendant violated a condition of bond related to the safety of the victim of the offense or the safety of the community. The bill requires a magistrate, if the magistrate finds that the violation occurred, to revoke the defendant's bond and order that the defendant be immediately returned to custody. The bill establishes that once the defendant is placed in custody, the revocation of the defendant's bond discharges the sureties on the bond, if any, from any future liability on the bond. The bill establishes that such a discharge from any future liability on the bond does not discharge any surety from liability for previous forfeitures on the bond. The bill makes its provisions regarding denial of bail and revocation of bond applicable to a defendant charged with such a felony offense committed against a child younger than 14 years of age.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3751 removes a provision from the original authorizing the taking into custody and the denial of release on bail pending trial of a defendant who is charged with a sexual offense or an offense involving prohibited sexual conduct or sexual performance by a child, who violates a condition of bond, and whose bail in the case is forfeited for the violation, if, following a hearing, a judge or magistrate determines by a preponderance of the evidence that the defendant violated a condition of bond related to the safety of the victim of the offense or the safety of the community.

C.S.H.B. 3751 adds a provision not in the original requiring a magistrate, if the magistrate finds that such a violation of bond by an applicable defendant occurred, to revoke the defendant's bond and order that the defendant be immediately returned to custody. The substitute adds a provision not in the original establishing that once the defendant is placed in custody, the revocation of the defendant's bond discharges the sureties on the bond, if any, from any future liability on the bond. The substitute adds a provision not in the original establishing that such a discharge from any future liability on the bond does not discharge any surety from liability for previous forfeitures on the bond.