

BILL ANALYSIS

C.S.H.B. 1856
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, the offense of tampering with a witness is a state jail felony. As such, there is little to deter a defendant accused of capital murder or a first or second degree felony offense from intimidating or coercing a witness to affect the witness's testimony or appearance in court. C.S.H.B. 1856 seeks to deter witness intimidation by making changes relating to the prosecution of and punishment for the offense of tampering with a witness.

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. 1856 amends the Penal Code to increase the penalty for tampering with a witness from a state jail felony to a felony of the third degree, except that if the official proceeding is part of the prosecution of a criminal case, the bill makes an offense of tampering with a witness the same category of offense as the most serious offense charged in that criminal case. The bill makes an offense of tampering with a witness a felony of the first degree if the most serious offense charged in the criminal case is a capital felony. The bill specifies that if an actor's conduct constitutes the offense of tampering with a witness and also constitutes an offense under any other law, the actor may be prosecuted under either law or both laws.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1856 omits provisions included in the original expanding the conditions that constitute the offense of tampering with a witness and specifying that, for purposes of that offense, an official proceeding is not required to be pending at the time of the offense and the testimony, information, document, or thing that is or could be withheld is not required to be admissible in evidence or free from a claim of privilege.