

BILL ANALYSIS

C.S.H.B. 2701
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Higher Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Recent legislation requires volunteers and employees who work with children at Texas youth camps to complete a sexual abuse and child molestation awareness training course approved by the Department of State Health Services. The training is designed to be a deterrent to those who might harm youth and to better equip volunteers and employees to detect abuse and those who prey on children. According to interested parties, this law has been embraced and successfully implemented by both private and nonprofit camps, but children who attend youth camps operated by or operated on the campus of certain institutions of higher education may not be sufficiently protected, as those institutions are already inspected by another governmental entity under other law.

C.S.H.B. 2701 seeks to provide for a sexual abuse and child molestation awareness training program for employees who will be in a position involving contact with campers at a campus program for minors held by or on campuses of certain institutions of higher education.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTIONS 1 and 2 of this bill.

ANALYSIS

Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practical, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

C.S.H.B. 2701 amends the Education Code to require, not later than December 1, 2011, the executive commissioner of the Health and Human Services Commission by rule to establish criteria and guidelines for a training and examination program on sexual abuse and child molestation for employees who will be in a position involving contact with campers at a campus program for minors operated by or held on campuses of certain institutions of higher education. The bill requires the training and examination program to include training and an examination on the definitions and effects of sexual abuse and child molestation; the typical patterns of behavior and methods of operation of child molesters and sex offenders that put children at risk; the warning signs and symptoms associated with sexual abuse or child molestation, recognition of the signs and symptoms, and the recommended methods of reporting suspected abuse; and the recommended rules and procedures for youth camps to implement to address, reduce, prevent, and report suspected sexual abuse or child molestation.

C.S.H.B. 2701 authorizes the Department of State Health Services (DSHS) to approve a training and examination program offered by trainers under contract with campus programs for minors or by online training organizations or programs offered in another format authorized by DSHS. The bill authorizes DSHS to assess a fee in the amount necessary to cover the costs of administering training and examination programs to each person that applies for DSHS approval of a training and examination program and each program operator who files with DSHS a required verification form. The bill requires DSHS at least every five years to review each training and examination program approved by DSHS to ensure the program continues to meet the criteria and guidelines established by rule.

C.S.H.B. 2701 authorizes DSHS to investigate a person DSHS suspects of violating these provisions or a rule adopted under these provisions. The bill subjects a person who violates these provisions to certain enforcement provisions of the Texas Youth Camp Safety and Health Act as if the person violated that act or a rule adopted under that act. The bill grants the operator of a campus program for minors and the institution that operates a campus program for minors or at which a campus program is conducted immunity from civil or criminal liability for any act or omission of an employee for which the employee is immune under statutory provisions governing immunities with regard to an investigation of a report of child abuse or neglect. The bill requires a program operator to consider the costs of compliance with the bill's provisions in determining any charges or fees imposed and collected for participation in a campus program for minors.

C.S.H.B. 2701 prohibits a program operator from employing an individual in a position involving contact with campers at a campus program for minors unless the individual submits to the program operator or the campus program for minors has on file documentation that verifies the individual within the preceding two years successfully completed the required training and examination program on sexual abuse and child molestation or the individual successfully completes the campus program for minors training and examination program on sexual abuse and child molestation, as approved by DSHS, during the individual's first five days of employment by the campus program for minors and the campus program issues and files documentation verifying successful completion. The bill exempts from this provision an individual who is a student enrolled at the institution of higher education that operates the campus program for minors or at which the campus program is conducted and whose contact with campers is limited to a single class of short duration.

C.S.H.B. 2701 requires a program operator to submit to DSHS on the form and within the time prescribed by DSHS verification that each employee of the campus program for minors has complied with the requirements for employees and the fee assessed by DSHS and to retain in the operator's records a copy of the documentation required or issued for each employee until the second anniversary of the examination date. The bill requires a person applying for or holding an employee position involving contact with campers at a campus program for minors to successfully complete the training and examination program on sexual abuse and child molestation during the applicable period. The bill exempts a campus program for minors or an individual employed by at a campus program for minors from being required to comply with the bill's provisions until June 1, 2012.

C.S.H.B. 2701 defines "camper," "campus program for minors," "department," "program operator," and "training and examination program on sexual abuse and child molestation" and provides for the meanings of "institution of higher education" and "private or independent institution of higher education" by reference.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2701 differs from the original by amending the Education Code, rather than the Health and Safety Code, as in the original, and by making related conforming changes.

C.S.H.B. 2701 differs from the original by defining "camper" as a minor who is attending a campus program for minors, whereas the original redefines "camper" to include a minor who is attending a campus program for minors.

C.S.H.B. 2701 differs from the original by defining "campus program for minors," in part, as a program that offers recreational, athletic, religious, or educational activities for at least 20 campers, rather than at least five, as in the original, and by specifying that the program is not a day camp or youth camp as defined in the Health and Safety Code, rather than a day camp or youth camp required to be licensed by the Department of Family and Protective Services, as in the original. The substitute contains provisions not included in the original defining "department" and "training and examination program on sexual abuse and child molestation."

C.S.H.B. 2701 differs from the original by setting out provisions relating to a training and examination program for employees of campus programs for minors on the warning signs of sexual abuse and child molestation, whereas the original also includes volunteers in the related provisions.

C.S.H.B. 2701 differs from the original, in a provision setting out an alternative eligibility requirement for employment by the operator of a campus program for minors in a position involving contact with the campers, to specify the training and examination program on sexual abuse and child molestation must be completed within the individual's first five days of employment, rather than during the individual's first workweek, as in the original.

C.S.H.B. 2701 contains a provision not included in the original exempting from the substitute's prohibition against a program operator employing an individual in a position involving contact with campers at a campus program for minors unless the individual meets certain criteria an individual who is a student enrolled at the institution of higher education that operates the campus program for minors or at which the campus program is conducted and whose contact with campers is limited to a single class of short duration.

C.S.H.B. 2701 differs from the original by changing a provision subjecting a person who violates provisions of the substitute or original, as applicable, to a civil penalty or injunction under the Texas Youth Camp Safety and Health Act to conform to the fact that the substitute amends the Education Code whereas the original amends the Texas Youth Camp Safety and Health Act.

C.S.H.B. 2701 contains provisions not included in the original granting a program operator and the institution that operates a campus program for minors or at which a campus program is conducted immunity from civil or criminal liability for any act or omission of an employee for which the employee is immune under statutory provisions governing immunities with regard to an investigation of a report of child abuse or neglect and requiring a program operator to consider the costs of compliance with the substitute's provisions in determining any charges or fee imposed and collected for participation in a campus program for minors.

C.S.H.B. 2701 differs from the original in nonsubstantive ways.