

BILL ANALYSIS

C.S.H.B. 2822
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, the penalty for spying on an individual for a lewd purpose in a place where that individual has an expectation of privacy, such as a public restroom or shower, is a Class C misdemeanor. Certain individuals who repeatedly spy on an individual in a place such as a public restroom or shower for a lewd purpose do not receive an enhanced penalty and are not required to register in the sex offender registration program.

C.S.H.B. 2822 would make it a state jail felony to spy on an individual through a window or opening in a home, or in a public place like a hotel guestroom, restroom, shower stall, or dressing room that is designed to provide privacy, with the intent to arouse or gratify sexual desire. A repeat offender is subject to registration as a sex offender.

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. 2822 amends the Penal Code, in the conditions constituting disorderly conduct relating to the looking into a dwelling or hotel guest room of another person or a certain public area designed to provide privacy to a person using the area, to specify that such conditions constitute the offense if engaged in for an unlawful purpose, rather than for a lewd or unlawful purpose.

C.S.H.B. 2822 expands the conditions that constitute the offense of disorderly conduct to include the following conduct engaged in with intent to arouse or gratify the sexual desire of any person: entering on the property of another and looking into a dwelling on the property through any window or other opening in the dwelling; while on the premises of a hotel or comparable establishment, looking into a guest room not the person's own through a window or other opening in the room; or while on the premises of a public place, looking into an area such as a restroom or shower stall or changing or dressing room that is designed to provide privacy to a person using the area. The bill makes such conduct engaged in with that intent a state jail felony and makes a conforming change to the conduct punishable as a Class C misdemeanor.

C.S.H.B. 2822 amends the Code of Criminal Procedure to redefine "reportable conviction or adjudication," for purposes of the sex offender registration program, to include a conviction or adjudication for or based on a second violation of the disorderly conduct offense involving the previously described conduct committed with the intent to arouse or gratify the sexual desire of any person, but not if the second violation results in a deferred adjudication; and to include a second violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements substantially similar to the elements of that disorderly conduct offense committed with that intent, but not if the second violation results in a deferred adjudication.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2822 contains a provision not included in the original changing the manner in which certain conduct constituting a disorderly conduct offense relating to looking into a dwelling or hotel guest room of another person or a certain public area designed to provide privacy to a person using the area is engaged for that conduct to be considered an offense by removing lewd and retaining unlawful as a purpose of the conduct. The substitute omits a provision included in the original enhancing the penalty for the offense involving the previously described conduct from a Class C misdemeanor to a state jail felony.

C.S.H.B. 2822 contains provisions not included in the original expanding the conditions that constitute the offense of disorderly conduct to include the previously described conduct committed with the intent to arouse or gratify the sexual desire of any person and making such conduct engaged in with such intent a state jail felony.

C.S.H.B. 2822 differs from the original by redefining "reportable conviction or adjudication" to include a conviction or adjudication for a second violation of the disorderly conduct offense involving the previously described conduct committed with intent to arouse or gratify the sexual desire of any person and a second violation of certain other state, federal, foreign, or military laws for or based on the violation of an offense containing elements substantially similar to the elements of that disorderly conduct offense committed with that intent, whereas the original redefines that term in the same manner with respect to the disorderly conduct offense involving the previously described conduct committed for a lewd or unlawful purpose.