

BILL ANALYSIS

C.S.H.B. 1502
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In light of a reported incident involving instructors at a boot camp facility in Abilene, Texas, using a taser to discipline a four-year-old boy for misbehaving, critics argue that legislative action is necessary to prohibit and criminalize this unacceptable method of punishing children. C.S.H.B. 1502 seeks to address this concern by creating the Class A misdemeanor offense of unlawful discipline of a child.

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. 1502 amends the Penal Code to create the Class A misdemeanor offense of unlawful discipline of a child for a person who subdues a child for disciplinary purposes by using a stun gun, a taser, handcuffs, or zip ties on the child. The bill establishes that the defenses to prosecution for the use of force against a child by a person in a certain relationship with the child are not available to a defendant for this offense if the child was 12 years of age or younger at the time of the offense. The bill specifies that, if an actor's conduct constitutes this offense and also constitutes an offense under another law, the actor may be prosecuted under either or both laws.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1502 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 22, Penal Code, is amended by adding Section 22.042 to read as follows:

Sec. 22.042. UNLAWFUL DISCIPLINE OF A CHILD. (a) In this section:

(1) "Child" means a person younger than 18 years of age.

(2) "Stun gun" has the meaning assigned by Section 38.14.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 22, Penal Code, is amended by adding Section 22.042 to read as follows:

Sec. 22.042. UNLAWFUL DISCIPLINE OF A CHILD. (a) In this section:

(1) "Child" means a person younger than 18 years of age.

(2) "Stun gun" has the meaning assigned by Section 38.14.

(3) "Taser" means a device that is intended, designed, made, or adapted to incapacitate a person by inflicting an electrical charge through the emission of a projectile or conductive stream.

(b) A person commits an offense if the person subdues a child for disciplinary purposes by using a stun gun, taser, or handcuffs or similar restraints on the child.

(c) An offense under this section is a Class A misdemeanor.

(d) The defenses to prosecution provided under Subchapter F, Chapter 9, are not available to a defendant under this section.

(e) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or both sections.

SECTION 2. This Act takes effect September 1, 2013.

(3) "Taser" means a device that is intended, designed, made, or adapted to incapacitate a person by inflicting an electrical charge through the emission of a projectile or conductive stream.

(b) A person commits an offense if the person subdues a child for disciplinary purposes by using a stun gun, a taser, handcuffs, or zip ties on the child.

(c) An offense under this section is a Class A misdemeanor.

(d) The defenses to prosecution provided under Subchapter F, Chapter 9, are not available to a defendant under this section if the child was 12 years of age or younger at the time of the offense.

(e) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or both sections.

SECTION 2. Same as introduced version.