

BILL ANALYSIS

C.S.H.B. 1748
By: Branch
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The enactment of Jessica's Law several years ago subjected offenders convicted of a subsequent serious sexual offense against a child to the death penalty or life imprisonment without parole, increased the penalties for certain sex crimes committed against young children, prohibited the release on parole or to mandatory supervision of certain repeat sex offenders and other offenders with child victims, extended the time frame during which criminal charges could be filed for certain sex offenses involving child victims, and established requirements regarding tracking sex offenders under the state's civil commitment program. A few years ago, California enacted Chelsea's Law, creating a true one-strike life-without-parole penalty for adult offenders who brutally rape children. Supporters of this law are currently lobbying to have the law enacted in all 50 states. C.S.H.B. 1748 seeks to incorporate this requirement into Texas law and to prevent sex offenders who commit violent sex crimes against children from committing such crimes again upon release from prison by setting the punishment at imprisonment for life without parole for adult offenders and setting a range of punishment for offenders younger than 18 years of age.

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. 1748 amends the Penal Code to remove the 25-year minimum imprisonment term for the offense of aggravated sexual assault committed against a victim younger than six years of age or in a certain manner against a victim younger than 14 years of age and to instead set the punishment for that offense at life imprisonment in the Texas Department of Criminal Justice (TDCJ) or for any term of not more than 99 years or less than 25 years, if at the time of the offense the defendant is younger than 18 years of age and the victim of the offense is younger than six years of age or is younger than 14 years of age and the actor committed the offense in a certain manner.

C.S.H.B. 1748 sets the punishment for aggravated sexual assault at imprisonment in TDCJ for life without parole, if at the time of the offense the defendant is 18 years of age or older and the victim of the offense is younger than six years of age, is younger than 14 years of age and the actor commits the offense in a certain manner, or is younger than 17 years of age and suffered serious bodily injury as a result of the offense.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1748 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

No equivalent provision.

SECTION 1. Sections 22.021(e) and (f), Penal Code, are amended to read as follows:
(e) An offense under this section is a felony of the first degree, except as provided by Subsection (f).

(f)(1) An offense under this section is a felony of the first degree, punishable by imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than ~~[The minimum term of imprisonment for an offense under this section is increased to]~~ 25 years, if at the time of the offense the defendant is younger than 17 years of age and:

(A) ~~[(1)]~~ the victim of the offense is younger than six years of age ~~[at the time the offense is committed]; or~~

(B) ~~[(2)]~~ the victim of the offense is **six years of age or older but** younger than 14 years of age ~~[at the time the offense is committed]~~ and the actor commits the offense in a manner described by Subsection (a)(2)(A).

(2) An offense under this section is a felony of the first degree, punishable by imprisonment in the Texas Department of Criminal Justice for life without parole, if at the time of the offense the defendant is 17 years of age or older and:

(A) the victim of the offense is younger than six years of age;

(B) the victim of the offense is six years of age or older but younger than 14 years of age and suffered bodily injury as a result of the offense; or

(C) the victim of the offense is 14 years of age or older but younger than 17 years of age and suffered serious bodily injury as a result of the offense.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. This Act shall be known as Chelsea's Law.

SECTION 2. Sections 22.021(e) and (f), Penal Code, are amended to read as follows:
(e) An offense under this section is a felony of the first degree, except as provided by Subsection (f).

(f)(1) An offense under this section is a felony of the first degree, punishable by imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than ~~[The minimum term of imprisonment for an offense under this section is increased to]~~ 25 years, if at the time of the offense the defendant is younger than 18 years of age and:

(A) ~~[(1)]~~ the victim of the offense is younger than six years of age ~~[at the time the offense is committed]; or~~

(B) ~~[(2)]~~ the victim of the offense is younger than 14 years of age ~~[at the time the offense is committed]~~ and the actor commits the offense in a manner described by Subsection (a)(2)(A).

(2) An offense under this section is a felony of the first degree, punishable by imprisonment in the Texas Department of Criminal Justice for life without parole, if at the time of the offense the defendant is 18 years of age or older and:

(A) the victim of the offense is younger than six years of age;

(B) the victim of the offense is younger than 14 years of age and the actor commits the offense in a manner described by Subsection (a)(2)(A); or

(C) the victim of the offense is younger than 17 years of age and suffered serious bodily injury as a result of the offense.

SECTION 3. Same as introduced version.

effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2013.

SECTION 4. Same as introduced version.