

BILL ANALYSIS

C.S.H.B. 2809
By: Toth
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties assert that the release of certain violent sex offenders from Texas prisons occurs too early and that the punishment does not fit the crime. While current law requires a defendant convicted of continuous sexual abuse of a young child or children, aggravated sexual assault, or continuous trafficking of persons to be punished by imprisonment in the Texas Department of Criminal Justice for life without parole if the defendant has a previous conviction of one of those offenses, offenders who commit other violent sex offenses are not included in this requirement. C.S.H.B. 2809 seeks to remedy this issue by requiring a sentence of life without parole for a defendant convicted of a sexually violent offense who has been previously convicted of a sexually violent offense or of continuous trafficking.

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. 2809 reenacts and amends Section 12.42(c)(4), Penal Code, as amended by Chapters 122 (H.B. 3000) and 1119 (H.B. 3), Acts of the 82nd Legislature, Regular Session, 2011, to revise the circumstances under which a defendant, unless punished for a capital felony under another statutory provision, is to be punished by life without parole by requiring such punishment if the defendant is convicted of a sexually violent offense or continuous trafficking of persons and it is shown during a trial that the defendant has previously been convicted of a sexually violent offense or continuous trafficking of persons, including an offense under another state's laws that contains substantially similar elements of those offenses.

C.S.H.B. 2809 amends the Penal Code to define "sexually violent offense" as an offense of continuous sexual abuse of a young child or children; aggravated sexual assault; certain trafficking of persons offenses involving sex trafficking; second degree felony indecency with a child; sexual assault; sexual performance by a child under the age of 14; aggravated kidnapping committed with intent to violate or abuse the victim sexually; first degree felony burglary of a habitation committed with intent to commit certain previously described sexually violent offenses, third degree felony indecency with a child, or prohibited sexual conduct; or an offense under another state's laws, federal law, the laws of a foreign country, or the Uniform Code of Military Justice that contains elements that are substantially similar to the elements of these sexually violent offenses.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2809 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. Sections 12.42(b) and (d), Penal Code, as amended by Chapters 834 (H.B. 3384) and 1119 (H.B. 3), Acts of the 82nd Legislature, Regular Session, 2011, are reenacted.

SECTION 2. Section 12.42(c)(4), Penal Code, as amended by Chapters 122 (H.B. 3000) and 1119 (H.B. 3), Acts of the 82nd Legislature, Regular Session, 2011, is reenacted and amended.

SECTION 3. Section 12.42, Penal Code, is amended by adding Subsection (h) to read as follows:

(h) In this section, "sexually violent offense" means:

(1) an offense under:

(A) Section 21.02 (continuous sexual abuse of a young child or children);

(B) Section 22.021 (aggravated sexual assault);

(C) Section 20A.02(a)(3), (4), (7), or (8) (sex trafficking);

(D) Section 21.11(a)(1) (indecent with a child);

(E) Section 22.011 (sexual assault); or

(F) Section 43.25 (sexual performance by a child);

(2) an offense under Section 20.04(a)(4) (aggravated kidnapping), if the defendant committed the offense with intent to violate or abuse the victim sexually;

(3) an offense under Section 30.02 (burglary), if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with intent to commit an offense under Section 21.11(a)(2) (indecent with a child) or 25.02 (prohibited sexual conduct) or a felony listed in Subdivision (1) or (2) of this subsection;
or

(4) an offense under the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice, if the offense contains elements that

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Same as introduced version.

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(1) an offense under:

(A) Section 21.02 (continuous sexual abuse of a young child or children);

(B) Section 22.021 (aggravated sexual assault);

(C) Section 20A.02(a)(3), (4), (7), or (8) (sex trafficking);

(D) Section 21.11(a)(1) (indecent with a child);

(E) Section 22.011 (sexual assault); or

(F) Section 43.25 (sexual performance by a child) **under the age of 14;**

(2) an offense under Section 20.04(a)(4) (aggravated kidnapping), if the defendant committed the offense with intent to violate or abuse the victim sexually;

(3) an offense under Section 30.02 (burglary), if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with intent to commit an offense under Section 21.11(a)(2) (indecent with a child) or 25.02 (prohibited sexual conduct) or a felony listed in Subdivision (1) or (2) of this subsection; or

(4) an offense under the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice, if the offense contains elements that

are substantially similar to the elements of an offense listed under Subdivision (1), (2), or (3).

SECTION 4. The change in law made by this Act in amending Section 12.42, Penal Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the 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 5. To the extent of any conflict, this Act prevails over another Act of the 83rd Legislature, Regular Session, 2013, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 6. This Act takes effect September 1, 2013.

are substantially similar to the elements of an offense listed under Subdivision (1), (2), or (3).

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.