

BILL ANALYSIS

C.S.H.B. 853
By: Sanford
Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that children who are victims of certain offenses deserve the right to have proper confidentiality during a case to protect the child's personal safety. C.S.H.B. 853 seeks to ensure the confidentiality of information that identifies children who are victims of certain offenses.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 853 amends the Code of Criminal Procedure to require the office of the attorney general, not later than October 1, 2015, to develop and distribute to all law enforcement agencies of the state a pseudonym form to record the name, address, telephone number, and pseudonym of a child victim. The bill authorizes a parent or guardian of a child victim to choose a pseudonym, which may be a set of initials or a fictitious name, to be used instead of the victim's name to designate the victim in all public files and records concerning the offense, including police summary reports, press releases, and records of judicial proceedings. The bill requires a parent or guardian who elects to use a pseudonym to complete the pseudonym form and return the form to the law enforcement agency investigating the offense. The bill requires a law enforcement agency receiving such a form to remove the victim's name and substitute the pseudonym for the name on all reports, files, and records in the agency's possession; to notify the attorney for the state of the pseudonym and that a parent or guardian of the victim has elected that the victim be designated by that pseudonym; and to maintain the form in a manner that protects the confidentiality of the information contained on the form. The bill requires an attorney for the state who receives such notice to ensure that the child victim is designated by the pseudonym in all legal proceedings concerning the offense.

C.S.H.B. 853 prohibits requiring a parent or guardian who completes and returns the pseudonym form to disclose the victim's name, address, and telephone number in connection with the investigation or prosecution of the offense. The bill establishes that a completed and returned pseudonym form is confidential and prohibits disclosure of such a form to any person other than a defendant in the case or the defendant's attorney, except on the order of a court of competent jurisdiction. The bill restricts disclosure of a child victim's name, address, and telephone number to a court of competent jurisdiction that finds that the information is essential in the trial of the

defendant for the offense or that the identity of the victim is in issue but does not require such a finding to disclose the confidential pseudonym form to the defendant in the case or to the defendant's attorney. The bill prohibits a public servant or other person who has access to or obtains identifying information of a child victim from releasing or disclosing the identifying information to any person who is not assisting in the investigation, prosecution, or defense of the case, except as required or permitted by other law or by court order, and exempts from this prohibition the release or disclosure of a child victim's identifying information by the victim or the victim's parent or guardian.

C.S.H.B. 853 makes it a Class C misdemeanor for a public servant or other person who has access to or obtains the name, address, or telephone number of a child victim to knowingly disclose such information to any person who is not assisting in the investigation or prosecution of the offense or to any person other than the defendant, the defendant's attorney, or a person specified in an order by a court of competent jurisdiction, unless such disclosure is required or permitted by other law or by court order. The bill establishes an affirmative defense to prosecution for the offense if the actor is the child victim or the victim's parent or guardian.

C.S.H.B. 853 amends the Family Code to apply the bill's provisions relating to the use of a pseudonym by a child victim in a criminal case to a proceeding held under the juvenile justice code.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 853 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Title 1, Code of Criminal Procedure, is amended.

No equivalent provision.

SECTION 2. Not later than October 1, 2015, the office of the attorney general shall develop and distribute to all law enforcement agencies of the state a pseudonym form to record the name, address, telephone number, and pseudonym of a child victim as required by Article 57A.02, Code of Criminal Procedure, as added by this Act.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Section 51.17(h), Family Code, is amended to read as follows:
(h) Articles 57.01, ~~and~~ 57.02, 57A.01, and 57A.02, Code of Criminal Procedure, relating to the use of a pseudonym by a victim in a criminal case, apply in a proceeding held under this title.

SECTION 3. Same as introduced version.

SECTION 3. This Act takes effect
September 1, 2015.

SECTION 4. Same as introduced version.