

BILL ANALYSIS

C.S.H.B. 3977
By: Dukes
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties explain that the majority of child abuse fatalities in Texas are prosecuted through statutory provisions relating to the offense of injury to a child causing serious bodily injury and that the state, in order to charge and convict under this statute, must show that the defendant knowingly and intentionally caused an injury that resulted in a permanent and lasting disfigurement or impairment to the child, including death. Interested parties have called for an increase in the minimum sentence for this terrible crime. C.S.H.B. 3977 seeks to make such changes to the law.

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. 3977 amends the Penal Code to establish that the first degree felony offense of injury to a child is punishable by imprisonment in the Texas Department of Criminal Justice for any term of not more than 99 years or less than 10 years.

C.S.H.B. 3977 amends the Code of Criminal Procedure to expand the injury to a child offenses for which a judge is prohibited from ordering community supervision to include all such offenses punishable as a first degree felony. The bill makes a defendant convicted of a first degree felony injury to a child offense ineligible for jury recommended community supervision.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3977 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. Section 3g(a), Article 42.12, Code of Criminal Procedure, is amended.

SECTION 2. Section 4(d), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(d) A defendant is not eligible for community supervision under this section if the defendant:

(1) is sentenced to a term of imprisonment that exceeds 10 years;

(2) is convicted of a state jail felony for which suspension of the imposition of the sentence occurs automatically under Section 15(a);

(3) does not file a sworn motion under Subsection (e) of this section or for whom the jury does not enter in the verdict a finding that the information contained in the motion is true;

(4) is convicted of an offense for which punishment is increased under Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any one of those subsections;

(5) is convicted of an offense listed in: (A) Section 3g(a)(1)(C), (E), or (H), if the victim of the offense was younger than 14 years of age at the time the offense was committed; or

(B) Section 3g(a)(I), if the victim of the offense was 14 years of age or younger at the time the offense was committed;

(6) is convicted of an offense listed in Section 3g(a)(1)(D), if the victim of the offense was younger than 14 years of age at the time the offense was committed and the actor committed the offense with the intent to violate or abuse the victim sexually;

(7) is convicted of an offense listed in Section 3g(a)(1)(J), (L), or (M); or

(8) is adjudged guilty of an offense under Section 19.02, Penal Code.

SECTION 4. Section 508.145(d)(1), Government Code, is amended to read as follows:

(1) An inmate serving a sentence for an offense described by Section 3g(a)(1)(A), (C), (D), (E), (F), (G), (H), [~~F~~] (J), (K),

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Section 4(d), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(d) A defendant is not eligible for community supervision under this section if the defendant:

(1) is sentenced to a term of imprisonment that exceeds 10 years;

(2) is convicted of a state jail felony for which suspension of the imposition of the sentence occurs automatically under Section 15(a);

(3) does not file a sworn motion under Subsection (e) of this section or for whom the jury does not enter in the verdict a finding that the information contained in the motion is true;

(4) is convicted of an offense for which punishment is increased under Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any one of those subsections;

(5) is convicted of an offense listed in: (A) Section 3g(a)(1)(C), (E), or (H), if the victim of the offense was younger than 14 years of age at the time the offense was committed; or

(B) Section 3g(a)(1)(I);

(6) is convicted of an offense listed in Section 3g(a)(1)(D), if the victim of the offense was younger than 14 years of age at the time the offense was committed and the actor committed the offense with the intent to violate or abuse the victim sexually;

(7) is convicted of an offense listed in Section 3g(a)(1)(J), (L), or (M); or

(8) is adjudged guilty of an offense under Section 19.02, Penal Code.

No equivalent provision.

(L), (M), or (N), Article 42.12, Code of Criminal Procedure, an offense for which the judgment contains an affirmative finding under Section 3g(a)(2) of that article, an offense under Section 20A.03, Penal Code, or an offense under Section 71.02 or 71.023, Penal Code, is not eligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals one-half of the sentence or 30 calendar years, whichever is less, but in no event is the inmate eligible for release on parole in less than two calendar years.

SECTION 5. Section 22.04, Penal Code, is amended.

SECTION 6. The changes in law made by this Act apply 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 7. This Act takes effect September 1, 2015.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.