

BILL ANALYSIS

C.S.H.B. 545
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been noted that, while the transfer of certain weapons to individuals considered to be dangerous or otherwise unable to handle the weapon is illegal, the conduct of such an offense does not account for individuals deemed by the courts as insane or mentally incompetent. C.S.H.B. 545 seeks to address this issue by expanding the conduct that constitutes the offense of unlawful transfer of certain weapons.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change 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. 545 amends the Penal Code to expand the conduct that constitutes the offense of unlawful transfer of certain weapons to include a person who knowingly sells, rents, leases, loans, or gives a firearm to a person who the actor knows, or has reasonable cause to believe, is:

- a person receiving inpatient mental health services by order of a court;
- a person who has been acquitted in a criminal case by reason of insanity or lack of mental responsibility, regardless of whether the person was ordered by a court to receive the applicable inpatient treatment or residential care;
- a person who has been determined to have an intellectual disability and committed by a court for long-term placement in a residential care facility; or
- a person determined to be incompetent to stand trial.

The bill establishes as a defense to prosecution for the conduct that the transfer is to:

- a person who the actor had reasonable cause to believe is a person fitting the criteria prescribed by the bill but who is not such a person;
- a person who is the subject of a judicial order or finding that the person is entitled to relief from disabilities in mental health cases; or
- a person who has obtained notice of relief from disabilities under federal law.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 545 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include among the expanded conduct a person knowingly selling, renting, leasing, loaning, or giving a firearm to a person who the actor knows, or has reasonable cause to believe, is an incapacitated adult for whom a court has appointed a guardian of the person based on a determination that the person lacks the mental capacity to manage the person's affairs.

The substitute includes as a defense to prosecution for the expanded conduct that the transfer is to a person who the actor had reasonable cause to believe is a person fitting the criteria prescribed by the bill but who is not such a person.