

BILL ANALYSIS

C.S.H.B. 1261
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been noted that the offense of endangering a child does not provide a presumption that a person has endangered a child when the person exposes the child to drugs other than methamphetamine, despite the fact that drugs such as cocaine are equally or more dangerous than methamphetamine. C.S.H.B. 1261 seeks to address this issue by revising the conduct that gives rise to the presumption that a person has endangered a child to include certain conduct involving cocaine.

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. 1261 amends the Penal Code to revise the conduct giving rise to the presumption that a person placed a child in imminent danger of death, bodily injury, or physical or mental impairment for purposes of the offense of endangering a child:

- by establishing that the person engaged in the conduct if:
 - in the presence of the child, the person manufactured, possessed, or in any way introduced into the body of any person methamphetamine or cocaine; or
 - the person's conduct related to the proximity or accessibility to the child of methamphetamine or cocaine and an analysis of a specimen of the child's blood, urine, or other bodily substance indicates the presence of either substance in the child's body; and
- by removing from such conduct the injection, ingestion, inhalation, or other introduction of any controlled substance listed in Penalty Group 1 of the Texas Controlled Substances Act into the human body when the person was not in lawful possession of the substance.

C.S.H.B. 1261 exempts a person from a presumption arising from conduct related to the proximity or accessibility to the child of methamphetamine or cocaine and an analysis indicating the presence of either substance in a child's body if:

- the actor's conduct relates to ingesting methamphetamine or cocaine while pregnant with the child;
- immediately following the child's birth, an analysis of a specimen of the child's blood, urine, or other bodily substance indicates the presence of methamphetamine or cocaine in the child's body; and

- the actor was enrolled in a chemical dependency treatment program or substance abuse treatment program before the child's birth, continued participating in the program while pregnant with the child, and successfully completed the program after giving birth to the child.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1261 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 changes from any controlled substance listed in Penalty Group 1 of the Texas Controlled Substances Act to methamphetamine and cocaine the substances for which the commission of conduct under the bill's provisions gives rise to the presumption that the actor placed a child in imminent danger of death, bodily injury, or physical or mental impairment for purposes of the offense of endangering a child.

The substitute includes a provision exempting an actor who ingests methamphetamine or cocaine while pregnant with a child from a presumption arising from certain conduct under the bill's provisions if the actor was enrolled in and completes a chemical dependency treatment program or substance abuse treatment program.