

## **BILL ANALYSIS**

C.S.H.B. 818  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been suggested that the current definition for the criminal offense of harassment is out of date and that there are gaps that allow harassment via indirect communication such as through online social media, which has become more common over time. Last session, House Bill 3490 attempted to address this issue but was vetoed by the governor, who cited free speech concerns. C.S.H.B. 818 incorporates language agreed to by stakeholders and addresses the free speech concerns from last session in order to close the gap in state law relating to harassment 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. 818 amends the Penal Code to create the Class B misdemeanor offense of harassment for a person who publishes repeated electronic communications on a website, including a social media platform, in a manner reasonably likely to abuse or torment or cause emotional distress to another person with the intent to harass, annoy, alarm, abuse, torment, or embarrass that person. The bill enhances the penalty to a Class A misdemeanor in the following circumstances:

- the actor has been previously convicted of a harassment offense;
- the actor has previously violated a temporary restraining order or injunction for cyberbullying a child; or
- the offense is committed against a child under 18 years of age with the intent that the child commit suicide or engage in conduct causing serious bodily injury to the child.

The bill excepts communications made in connection with a matter of public concern from the application of the offense and provides for the meaning of "matter of public concern" by reference to its definition in the Civil Practice and Remedies Code.

C.S.H.B. 818 amends the Education Code to authorize the principal of a public primary or secondary school, or a person designated by the principal, to make a report to an applicable police department or county sheriff if, after an investigation is completed, the principal has reasonable grounds to believe that a student engaged in such a harassment offense.

### **EFFECTIVE DATE**

September 1, 2021.

## **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 818 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 repeated electronic communications in a manner reasonably likely to harass another person among the conduct constituting the offense, which was in the original.

The substitute includes repeated electronic communications in a manner reasonably likely to cause emotional distress to another person among the conduct constituting the offense, which was not in the original. The substitute includes an exception to the application of the offense that was not in the original.