

## **BILL ANALYSIS**

C.S.S.B. 568  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In most institutional settings, children are vulnerable to sexual abuse from authority figures and lack the power to seek justice when these violations occur. Even when these children come forward, authority figures can downplay or even help facilitate the abuse, enabling sexual predators to continuously and systematically prey upon young children. There are concerns that state law does not adequately address failures to report sexual offenses committed against a child and that, as a result, children who are the victims of these offenses can be subject to further abuse. Additionally, there are concerns that the current standard for reporting certain sexual offenses committed against a child only involves observing the commission or attempted commission of continuous sexual abuse or aggravated sexual assault of a child and failing to assist the child or report the commission of the offense.

C.S.S.B. 568 seeks to address these issues and change the reporting standard by establishing a third degree felony offense of hindering the investigation or prosecution of certain sexual offenses committed against a child. The bill also enhances the penalty for the offense to a second degree felony if the person who committed the sexual offense against a child commits a subsequent sexual offense against a child, and the actor's failure to report the sexual offense against a child enabled or facilitated the person's commission of the subsequent offense.

### **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.S.B. 568 amends the Penal Code to replace the Class A misdemeanor offense of failure to stop or report aggravated sexual assault of a child, which involves observing the commission or attempted commission of continuous sexual abuse or aggravated sexual assault of a child younger than 14 years of age and failing to assist the child or report the commission of the offense, with the third degree felony offense of hindering the investigation or prosecution of the following sexual offenses committed against a child:

- trafficking of persons;
- continuous trafficking of persons;
- continuous sexual abuse of a young child or children;
- indecency with a child;
- sexual assault of a child;

- aggravated sexual assault of a child;
- compelling prostitution; or
- sexual performance by a child.

The bill makes it an offense for a person 17 years of age or older to fail to report the sexual offense against a child to an applicable professional or other person and engage in any of the following conduct intended to hinder the investigation or prosecution of the sexual offense against a child:

- altering, destroying, or concealing any record, document, or thing to impair its verity, legibility, or availability as evidence in the investigation or prosecution;
- interfering with the willingness of a witness to the sexual offense to report that offense to, or cooperate in the investigation or prosecution of the offense with, a law enforcement agency or the Department of Family and Protective Services (DFPS) or otherwise preventing the report by or cooperation of the witness;
- harboring or concealing the person who committed the sexual offense;
- providing or aiding in providing the person who committed the sexual offense with a means to avoid investigation or arrest, including by assisting the person in relocating to another area; or
- providing false information regarding the sexual offense to a law enforcement agency or to DFPS.

C.S.S.B. 568 enhances the penalty for hindering the investigation or prosecution of certain sexual offenses committed against a child to a second degree felony if the person who committed the sexual offense against a child commits a subsequent sexual offense against a child, and the actor's failure to report the sexual offense against a child enabled or facilitated the person's commission of the subsequent offense. The following information may not be released to the public and is not public information under state public information law:

- the name of the child who is the victim of the sexual offense;
- the name of the actor, until the actor is charged with hindering the investigation or prosecution of certain sexual offenses committed against a child; and
- the name of the person whom the actor believes to have committed the sexual offense, until the person is charged with the applicable offense.

### **EFFECTIVE DATE**

September 1, 2021.

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 568 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute does not include the provision in the engrossed that replaced the Class A misdemeanor offense of failure to stop or report aggravated sexual assault of a child with the state jail felony offense of failure to report certain sexual offenses committed against a child for a person 18 years of age or older who knows that another person has committed the sexual offense and fails to immediately report the commission of the offense to a law enforcement agency or to DFPS and does not set out provisions related to that offense. Instead, the substitute replaces the Class A misdemeanor offense of failure to stop or report aggravated sexual assault of a child with the third degree felony offense of hindering the investigation or prosecution of certain sexual offenses committed against a child for a person 17 years of age or older who fails to report the sexual offense against a child to an applicable professional or other person and engages in certain conduct intended to hinder the investigation or prosecution of the sexual offense against a child.

The substitute includes the following provisions absent from the engrossed:

- provisions enhancing the penalty for hindering the investigation or prosecution of certain sexual offenses committed against a child to a second degree felony if the person who committed the offense commits a subsequent sexual offense against a child and the actor's failure to report the sexual offense against a child enabled or facilitated the person's commission of the subsequent offense; and
- a prohibition against certain information from being released to the public and establishing that it is not public information under state public information law.