

BILL ANALYSIS

H.B. 1762
By: González, Mary
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The affirmative defense to indecency with a child for certain consensual relationships between individuals of a similar age is available to adolescents in opposite-sex relationships but not to those in same-sex relationships. Current statute on indecency with a child provides a defense to prosecution if the individuals involved are within three years of each other's age and of the opposite sex, the act was consensual and not forced, and the individual being prosecuted is not required to register as a sex offender. H.B. 1762 seeks to address this inconsistency with respect to same-sex relationships by providing all adolescents with the same affirmative defense regardless of their sexual orientation by striking the requirement that the adolescents at issue be of the opposite sex.

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

H.B. 1762 amends the Penal Code to remove language specifying the sex of the victim in an affirmative defense to prosecution for indecency with a child for an actor who, at the time of the offense, was not more than three years older than the victim, did not use duress, force, or a threat against the victim, and was not required to register for life as a sex offender or did not have a reportable conviction or adjudication for an offense of indecency with a child. The bill applies only to an offense committed on or after the bill's effective date and to any criminal action pending on the bill's effective date for an offense committed before that date. The bill does not apply to a final conviction for an applicable offense that exists on the bill's effective date.

EFFECTIVE DATE

September 1, 2023.