

BILL ANALYSIS

C.S.H.B. 2345
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Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, there is no definition of "economic benefit" in response to winning a game of skill or luck. Additionally, there is a need for clarification regarding the definition of a "private place" with respect to Penal Code provisions relating to gambling offenses, specifically how the public may or may not have access to the place, and a need to establish certain exceptions to the applicability of those provisions, including providing for gambling that occurs in a private place. C.S.H.B. 2345 seeks to provide for the definition of "economic benefit" and clarify the definition of "private place" with respect to provisions relating to gambling and certain gambling criminal offenses. The bill also creates certain exceptions to the application of the offense of gambling promotion and changes certain defenses to prosecution for gambling and keeping a gambling place to exceptions to the application of those offenses.

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. 2345 amends the Penal Code to create an exception to the application of the offense of gambling promotion involving operating or participating in the earnings of a gambling place if the following conditions are met:

- the gambling place was located in a private place;
- the gambling place did not provide any economic benefit other than personal winnings to any person; and
- except for the advantage of skill or luck, the risks of losing and the chances of winning at the gambling place were the same for all participants.

The bill creates an exception to the application of the offense of gambling promotion in which the actor, for gain, becomes a custodian of anything of value bet or offered to be bet if the following conditions are met:

- the thing of value was bet or offered in a private place;
- the thing of value bet or offered did not provide any economic benefit other than personal winnings to any person; and
- except for the advantage of skill or luck, the risks of losing and the chances of winning the thing of value bet or offered were the same for all participants.

The bill establishes that certain conditions that constitute a defense to prosecution for the offense of gambling under current law instead constitute an exception to the application of that offense and that the conditions that constitute an affirmative defense to prosecution for the offense of

keeping a gambling place under current law instead constitute an exception to the application of that offense.

C.S.H.B. 2345, with respect to certain definitions applicable to gambling and certain gambling criminal offenses, does the following:

- defines "economic benefit" as direct winnings from a game of skill or luck and excludes from the term a benefit received before a game commences or after payment of the direct winnings from the game; and
- retains the definition of "private place" and the exclusions from that definition but adds the specification that a private place is a place to which the public does not have access without a valid membership, special invitation, or prior grant of permission.

C.S.H.B. 2345 applies only to an offense committed on or after the bill's effective date. The bill provides for the continuation of the law in effect before the bill's effective date for purposes of an offense, or any element thereof, that occurred before that date.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2345 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the bill's effective date to provide for its possible immediate effect, contingent on receiving the requisite constitutional vote, whereas the introduced provided only for the bill to take effect September 1, 2023, with no possibility for immediate effect.

The substitute includes provisions absent from the introduced that do the following:

- create certain exceptions to the application of the offense of gambling promotion; and
- revise certain defenses to prosecution for gambling and keeping a gambling place by making the conditions constituting those defenses instead constitute exceptions to the application of the offenses.