

BILL ANALYSIS

C.S.H.B. 748
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, there is no state law prohibiting perpetrators or institutions involved with child sexual abuse from creating and engaging the victim in nondisclosure agreements (NDA) as a part of a lawsuit settlement. Victims who sign NDAs, including Trey Carlock, who experienced severe mental health problems after enduring years of sexual abuse and was coerced into signing an NDA, are further prohibited from speaking out about their abuse or discovery in a settled case. His family cites the pressure to remain silent about the abuse and its effects because of the NDA as the main factor in his decision to end his life. While the federal Speak Out Act of 2022 prohibits the use of NDAs for adult cases of sexual harassment and assault in the workplace, those who experienced continual sexual abuse as children are still at risk of being silenced by NDAs. C.S.H.B. 748, cited as Trey's Law, seeks to prevent a party liable for the sexual abuse of a child from applying a nondisclosure or confidentiality agreement or a nondisclosure or confidentiality provision of any other agreement to a settlement of any case by deeming void and unenforceable certain related provisions of any agreement that prohibit a party from disclosing an act of sexual abuse, including certain acts committed against a child, or facts related to such an act of sexual abuse to any other person.

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. 748 amends the Civil Practice and Remedies Code to establish that any provision of a nondisclosure or confidentiality agreement or nondisclosure or confidentiality provision of an employment agreement, settlement agreement, or any other agreement is void and unenforceable as against the public policy of the state to the extent the provision prohibits a party from disclosing an act of sexual abuse or facts related to an act of sexual abuse to any other person. The bill establishes that nothing in its provisions may be construed to prohibit a party from agreeing to keep confidential any other provision of a settlement agreement, including the amount or payment terms of a settlement.

C.S.H.B. 748 defines "act of sexual abuse" as follows:

- conduct that constitutes "abuse" under Family Code provisions relating to investigations of reports of child abuse or neglect, including an act or omission by a person involving:
 - sexual conduct harmful to a child's mental, emotional, or physical welfare;
 - failure to make a reasonable effort to prevent sexual conduct harmful to a child;

- compelling or encouraging the child to engage in sexual conduct as defined by Penal Code provisions relating to prostitution offenses;
- causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene, as defined by applicable Penal Code provisions, or pornographic;
- causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by applicable Penal Code provisions; or
- knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked in a manner punishable as an offense under applicable state law or the failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under that law; or
- conduct that constitutes one or more of the following Penal Code offenses:
 - indecency with a child;
 - sexual assault;
 - aggravated sexual assault;
 - sexual performance by a child;
 - compelling prostitution; or
 - a trafficking of persons offense involving an actor who knowingly:
 - traffics another person and, through force, fraud, or coercion, causes the trafficked person to engage in certain prostitution offenses;
 - traffics a child or disabled individual and by any means causes the trafficked child or disabled individual to engage in, or become the victim of, certain offenses; or
 - receives a benefit from participating in a venture that involves either of those activities or engages in sexual conduct with a child, disabled individual, or other person so trafficked.

C.S.H.B. 748 applies to an agreement entered into before, on, or after the bill's effective date.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 748 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 includes a provision absent from the introduced establishing that the bill may be cited as Trey's Law.

While both the introduced and the substitute define "act of sexual abuse," the substitute includes in that definition conduct that constitutes "abuse" under certain Family Code provisions, which was not included in the definition in the introduced.

Both the introduced and the substitute establish that provisions of certain agreements are void and unenforceable as against the state's public policy to the extent that the provision takes certain action against a party. However, the introduced made this applicable to any provision of an employment agreement, settlement agreement, or any other agreement, whereas the substitute makes this applicable to a nondisclosure or confidentiality provision of such an agreement.

With respect to the actions taken against a party that make the applicable agreement provisions void and unenforceable, the introduced and substitute differ as follows:

- the substitute omits from those actions prohibiting a party from notifying, or limiting the party's ability to notify, a local or state law enforcement agency or any state or federal regulatory agency of an act of sexual abuse committed against a child, which was included in the introduced;
- the substitute accordingly omits a definition of "child" that was included in the introduced; and
- with regard to the action prohibiting a party from disclosing certain information related to an act of sexual abuse, the introduced made that applicable during any related investigation, prosecution, legal proceeding, or dispute resolution and applicable to facts surrounding any act of sexual abuse committed against a child, including the alleged offender's identity, whereas the substitute makes it applicable to an act of sexual abuse or facts related to an act of sexual abuse and does not include a specified time frame of applicability.

The substitute includes a provision absent from the introduced establishing that nothing in the bill's provisions may be construed to prohibit a party from agreeing to keep confidential any other provision of a settlement agreement, including the amount or payment terms of a settlement.