

## **BILL ANALYSIS**

C.S.H.B. 5139

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Homeland Security, Public Safety & Veterans' Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The bill author has informed the committee of ambiguity in current law regarding when and how peace officers and correctional facility guards may use less-lethal force weapons, including bean bag rounds, stun guns, or batons, and that such ambiguity may expose these officers and guards to unnecessary legal liability when using force reasonably and according to their training. C.S.H.B. 5139 seeks to clarify and protect the lawful use of less-lethal force weapons by peace officers and correctional facility guards by providing for the legal justification for the use of less-lethal force weapon options reasonably necessary to accomplish such an officer's or guard's duties under certain circumstances.

### **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. 5139 amends the Penal Code to establish that a person who is a guard employed by a correctional facility or a peace officer is justified in using force with a less-lethal force weapon against another to the degree reasonably necessary to accomplish the person's official duties as a guard or officer if the person's use of the weapon was in substantial compliance with the person's training.

C.S.H.B. 5139 defines "less-lethal force weapon" as the following:

- any weapon, device, or munition that is designed, made, or adapted to expel a projectile or multiple projectiles against a target to temporarily incapacitate the target while minimizing the risk of serious bodily injury or death;
- a chemical dispensing device;
- a device used to strike a person; or
- a stun gun as defined by reference to statutory provisions relating to the offense of taking or attempting to take a weapon from a peace officer, federal special investigator, employee or official of correctional facility, parole officer, community supervision and corrections department officer, or commissioned security officer.

C.S.H.B. 5139 applies only to an offense committed on or after the bill's effective date. An offense committed before the bill's effective date is governed by the law in effect on the date that offense was committed, and the former law is continued in effect for that purpose. For these

purposes, an offense was committed before the bill's effective date if any element of the offense occurred before that date.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2025.

### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 5139 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 introduced included a provision establishing that a guard employed by a correctional facility or a peace officer is justified in using force with a less-lethal force weapon against another to the degree reasonably necessary to accomplish the officer's duties if the following conditions apply:

- the officer was justified in using force under Penal Code provisions relating to justification excluding criminal responsibility; and
- the officer's use of the less-lethal force weapon was in substantial compliance with the officer's training.

The substitute omits this provision and instead includes provisions absent from the introduced establishing that a guard employed by a correctional facility or a peace officer is justified in using force with a less-lethal force weapon against another to the degree reasonably necessary to accomplish the person's official duties as a guard or officer if the person's use of the weapon was in substantial compliance with the person's training.