

BILL ANALYSIS

C.S.H.B. 4015
By: Neave
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that higher education institutions in Texas face serious challenges in effectively addressing sexual assault, particularly given that victims and witnesses are less likely to report sexual assault when doing so may result in criminal charges for underage drinking. C.S.H.B. 4015 seeks to address this issue by removing a barrier discouraging victims and witnesses from reporting sexual assault.

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. 4015 amends the Alcoholic Beverage Code to exempt from application of an offense for the consumption or possession of alcohol by a minor a minor who reports the sexual assault of the minor or another person to a health care provider treating the victim of the sexual assault; to an employee of a law enforcement agency, including an employee of a campus police department of an institution of higher education; or to the Title IX coordinator of an institution of higher education or another employee of the institution responsible for responding to reports of sexual assault. The bill also exempts from application of either offense a minor who is the victim of a sexual assault so reported by another person to those entities. The bill entitles a minor to raise such a defense in the prosecution of the applicable offense only if the minor is in violation of statutory provisions relating to such an offense at the time of the commission of a sexual assault that is so reported by the minor or committed against the minor and so reported by another person. The bill establishes that a minor who commits a sexual assault that is reported in such a manner is not entitled to raise such a defense in the prosecution for the consumption or possession of alcohol by a minor.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4015 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 106.04, Alcoholic Beverage Code, is amended by adding Subsection (f) to read as follows:

(f) Subsection (a) does not apply to a minor who reports the sexual assault of the minor or another person to:

- (1) a health care provider treating the victim of the sexual assault;
- (2) an employee of a law enforcement agency, including an employee of a campus police department of an institution of higher education at which the victim of the sexual assault is enrolled; or
- (3) the Title IX coordinator of an institution of higher education at which the victim of the sexual assault is enrolled or another employee of the institution responsible for responding to reports of sexual assault.

SECTION 2. Section 106.05, Alcoholic Beverage Code, is amended by adding Subsection (e) to read as follows:

(e) Subsection (a) does not apply to a minor who reports the sexual assault of the minor or another person to:

- (1) a health care provider treating the victim of the sexual assault;

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 106.04, Alcoholic Beverage Code, is amended by adding Subsections (f), (g), and (h) to read as follows:

(f) Except as provided by Subsection (g), Subsection (a) does not apply to a minor who reports the sexual assault of the minor or another person, or is the victim of a sexual assault reported by another person, to:

- (1) a health care provider treating the victim of the sexual assault;
- (2) an employee of a law enforcement agency, including an employee of a campus police department of an institution of higher education; or
- (3) the Title IX coordinator of an institution of higher education or another employee of the institution responsible for responding to reports of sexual assault.

(g) A minor is entitled to raise the defense provided by Subsection (f) in the prosecution of an offense under this section only if the minor is in violation of this section at the time of the commission of a sexual assault that is:

- (1) reported by the minor under Subsection (f); or
- (2) committed against the minor and reported by another person under Subsection (f).

(h) A minor who commits a sexual assault that is reported under Subsection (f) is not entitled to raise the defense provided by Subsection (f) in the prosecution of the minor for an offense under this section.

SECTION 2. Section 106.05, Alcoholic Beverage Code, is amended by adding Subsections (e), (f), and (g) to read as follows:

(e) Except as provided by Subsection (f), Subsection (a) does not apply to a minor who reports the sexual assault of the minor or another person, or is the victim of a sexual assault reported by another person, to:

- (1) a health care provider treating the victim of the sexual assault;

(2) an employee of a law enforcement agency, including an employee of a campus police department of an institution of higher education at which the victim of the sexual assault is enrolled; or

(3) the Title IX coordinator of an institution of higher education at which the victim of the sexual assault is enrolled or another employee of the institution responsible for responding to reports of sexual assault.

(2) an employee of a law enforcement agency, including an employee of a campus police department of an institution of higher education; or

(3) the Title IX coordinator of an institution of higher education or another employee of the institution responsible for responding to reports of sexual assault.

(f) A minor is entitled to raise the defense provided by Subsection (e) in the prosecution of an offense under this section only if the minor is in violation of this section at the time of the commission of a sexual assault that is:

(1) reported by the minor under Subsection (e); or

(2) committed against the minor and reported by another person under Subsection (e).

(g) A minor who commits a sexual assault that is reported under Subsection (e) is not entitled to raise the defense provided by Subsection (e) in the prosecution of the minor for an offense under this section.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. Same as introduced version.

SECTION 4. This Act takes effect September 1, 2017.

SECTION 4. Same as introduced version.