

SUBJECT: Consecutive sentences for offenses against children, elderly, disabled

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Gallego, Hartnett, Aliseda, Burkett, Carter, Christian, Rodriguez, Zedler

0 nays

1 absent — Y. Davis

WITNESSES: For — Carlos Higgins, Texas Silver-Haired Legislature (*Registered, but did not testify*: Katrina Daniels, Bexar County District Attorney, Susan D. Reed; Jason Sabo, United Ways of Texas; Andrea Sparks, Texas CASA)

Against — (*Registered, but did not testify*: Andrea Bos, ACLU of Texas)

On — Shannon Edmonds, Texas District & County Attorneys Association

BACKGROUND: Under Penal Code, sec. 3.03, sentences for convictions of most offenses arising from the same criminal episode and prosecuted in a single action must run concurrently. Sentences for convictions or plea agreements for the following offenses may run concurrently or consecutively:

- intoxication assault or manslaughter;
- online solicitation of a minor;
- continuous sexual abuse of a child;
- indecency with a child;
- sexual assault or aggravated sexual assault;
- incest;
- sexual performance of a child;
- improper photography or visual recording;
- possession or promotion of child pornography; and
- if the illegal activity was street gang related.

DIGEST: HB 1601 would amend Penal Code, sec. 3.03 to allow concurrent or consecutive sentences for convictions or plea agreements for the offense of causing serious bodily injury or serious mental deficiency, impairment,

or injury to a child, elderly person, or disabled person that was punishable as a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000).

The bill would take effect September 1, 2011, and would apply only to offenses committed on or after that date.

**SUPPORTERS
SAY:**

By adding to the list of offenses for which sentences could be stacked, HB 1601 would recognize the heinous nature of causing serious injury to a child, elderly person, or disabled person. These crimes are as serious, if not more serious, than the crimes already on the list.

The bill would give judges a useful tool to help ensure that individuals who committed these crimes remained in prison. Stacking sentences would remain permissive, not mandatory.

With concurrent sentencing for offenses arising out of the same criminal episode, the offender is punished only once, despite having committed multiple offenses. HB 1601 would allow the offender to be punished for each crime, without separate trials that would be a drain on victims and on court resources.

**OPPONENTS
SAY:**

Stacking sentences, as HB 1602 would do, would not be an effective deterrent to these crimes. The cost of keeping people imprisoned would divert resources away from other important efforts, such as criminal investigations and the probation and parole systems.

NOTES:

During the 2009 regular session, a similar bill, HB 1590 by Rose, passed the House, but died in the Senate Criminal Justice Committee.