

BILL ANALYSIS

Senate Research Center
81R27487 KEL-D

H.B. 2846
By: Riddle (Huffman)
Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Due to children often being ineffective witnesses in criminal proceedings involving sexual abuse because of the pressure of testifying in front of strangers and the defendant, Texas law authorizes the testimony of the outcry witness, which is the first adult the child informed about the alleged acts, to be used as evidence in criminal proceedings. This law applies to an outcry witness of the victim only. This information would give the jury a better understanding of the defendant's history and could result in a different verdict.

H.B. 2846 applies the provision relating to the admissibility of a hearsay statement of a child abuse victim to a proceeding in the prosecution of a sexual offense, assaultive offense, prohibited sexual conduct, sexual performance by a child, or criminal attempt of these offenses committed against a child younger than 14 years of age. This bill includes certain statements describing actions other than the alleged offense that were committed against the child victim or another child to be admissible as evidence.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1, Article 38.072, Code of Criminal Procedure, as follows:

Sec. 1. Provides that this article applies to a proceeding in the prosecution of an offense under any of the following provisions of the Penal Code, if committed against a child younger than 14 years of age, rather than 12 years of age or younger:

- (1) Chapter 21 (Sexual Offenses) or 22 (Assaultive Offenses);
- (2) Section 25.02 (Prohibited Sexual Conduct);
- (3) Section 43.25 (Sexual Performance by a Child); or
- (4) Section 15.01 (Criminal Attempt), if the offense attempted is described by Subdivision (1), (2), or (3) of this section. Makes a nonsubstantive change.

SECTION 2. Amends Section 2(a), Article 38.072, Code of Criminal Procedure, as follows:

(a) Provides that this article applies only to statements that describe the alleged offense or if the statement is offered during the punishment phase of the proceeding, a crime, wrong, or act other than the alleged offense that is described by Section 1, allegedly committed by the defendant against the child who is the victim of the offense or another child younger than 14 years of age, and otherwise admissible as evidence under Article 38.37, Rule 404 or 405, Texas Rules of Evidence, or another law or rule of evidence of this state; were made by the child against whom the charged offense or extraneous crime, wrong, or act was allegedly committed; and were made to the first person, 18 years of age or older, other than the defendant, to whom the child made a statement about the offense or extraneous crime, wrong, or act.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2009.