

BILL ANALYSIS

C.S.H.B. 1848
By: Coleman
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the current prohibition against homosexual conduct is unenforceable due to a United States Supreme Court ruling. C.S.H.B. 1848 seeks to align certain statutes with that ruling and to repeal the offense of homosexual conduct.

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. 1848 repeals Section 21.06, Penal Code, that creates the Class C misdemeanor offense of homosexual conduct for a person who engages in deviate sexual intercourse with another individual of the same sex.

C.S.H.B. 1848 amends the Health and Safety Code to make conforming changes.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1848 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	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 21.06, Penal Code, is repealed.	SECTION 1. Same as introduced version.
SECTION 2. Section 85.007(b), Health and Safety Code, is amended to read as follows: (b) The materials in the education programs	SECTION 2. Section 85.007(b), Health and Safety Code, is amended to read as follows: (b) The materials in the education programs

intended for persons younger than 18 years of age must[:

~~[(1)] emphasize sexual abstinence before marriage and fidelity in marriage as the expected standard in terms of public health and the most effective ways to prevent HIV infection, sexually transmitted diseases, and unwanted pregnancies[; and~~

~~[(2) state that homosexual conduct is not an acceptable lifestyle and is a criminal offense under Section 21.06, Penal Code].~~

SECTION 3. Section 163.002, Health and Safety Code, is amended to read as follows:

Sec. 163.002. INSTRUCTIONAL ELEMENTS. Course materials and instruction relating to sexual education or sexually transmitted diseases should include:

(1) an emphasis on sexual abstinence as the only completely reliable method of avoiding unwanted teenage pregnancy and sexually transmitted diseases;

(2) an emphasis on the importance of self-control, responsibility, and ethical conduct in making decisions relating to sexual behavior;

(3) statistics, based on the latest medical information, that indicate the efficacy of the various forms of contraception;

(4) information concerning the laws relating to the financial responsibilities associated with pregnancy, childbirth, and child rearing;

(5) information concerning the laws prohibiting sexual abuse and the legal and counseling options available to victims of sexual abuse;

(6) information on how to cope with and rebuff unwanted physical and verbal sexual advances, as well as the importance of avoiding the sexual exploitation of other persons; and

(7) psychologically sound methods of resisting unwanted peer pressure[; and

~~[(8) emphasis, provided in a factual manner and from a public health perspective, that homosexuality is not a lifestyle acceptable to the general public and that homosexual conduct is a criminal offense under Section 21.06, Penal Code].~~

SECTION 4. This Act takes effect

intended for persons younger than 18 years of age must:

(1) emphasize sexual abstinence before marriage and fidelity in marriage as the expected standard in terms of public health and the most effective ways to prevent HIV infection, sexually transmitted diseases, and unwanted pregnancies; and

(2) state that homosexual conduct is not an acceptable lifestyle ~~[and is a criminal offense under Section 21.06, Penal Code].~~

SECTION 3. Section 163.002, Health and Safety Code, is amended to read as follows:

Sec. 163.002. INSTRUCTIONAL ELEMENTS. Course materials and instruction relating to sexual education or sexually transmitted diseases should include:

(1) an emphasis on sexual abstinence as the only completely reliable method of avoiding unwanted teenage pregnancy and sexually transmitted diseases;

(2) an emphasis on the importance of self-control, responsibility, and ethical conduct in making decisions relating to sexual behavior;

(3) statistics, based on the latest medical information, that indicate the efficacy of the various forms of contraception;

(4) information concerning the laws relating to the financial responsibilities associated with pregnancy, childbirth, and child rearing;

(5) information concerning the laws prohibiting sexual abuse and the legal and counseling options available to victims of sexual abuse;

(6) information on how to cope with and rebuff unwanted physical and verbal sexual advances, as well as the importance of avoiding the sexual exploitation of other persons;

(7) psychologically sound methods of resisting unwanted peer pressure; and

(8) emphasis, provided in a factual manner and from a public health perspective, that homosexuality is not a lifestyle acceptable to the general public ~~[and that homosexual conduct is a criminal offense under Section 21.06, Penal Code].~~

SECTION 4. Same as introduced version.

immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.