

## **BILL ANALYSIS**

C.S.H.B. 3135  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Concerns have been raised that too many children are being exposed to material or conduct that is obscene or otherwise harmful. It has been suggested that this exposure is facilitated by affirmative defenses to prosecution that exempt actors from criminal liability when the exposure is for educational or medical purposes or certain other purposes. C.S.H.B. 3135 seeks to protect children from these obscenities by revising these affirmative defenses.

### **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. 3135 amends the Penal Code to remove as an affirmative defense to prosecution for the offense of sexual performance by a child that the conduct constituting the offense was for a bona fide educational, medical, psychological, or psychiatric purpose. The bill changes the sale, distribution, or exhibition that constitutes an affirmative defense to prosecution for the sale, distribution, or display of harmful material to a minor from a sale, distribution, or exhibition by a person having a scientific, educational, governmental, or other similar justification to a sale, distribution, or exhibition by a person having a bona fide judicial, law enforcement, or legislative justification.

### **EFFECTIVE DATE**

September 1, 2019.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 3135 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include the removal of the affirmative defense to prosecution for the offense of sexual performance by a child that the conduct constituting the offense was for a bona fide judicial or legislative purpose.

The substitute does not include the repeal of the affirmative defense to prosecution for the sale, distribution, or display of harmful material to a minor but revises the conduct applicable to such an affirmative defense.