

SUBJECT: Creating a defense to underage alcohol use for victims of sexual assault

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Moody, Gervin-Hawkins, Hefner, Lang, Wilson

0 nays

2 absent — Hunter, Canales

SENATE VOTE: On final passage, April 26 — 31-0

WITNESSES: *On House companion bill, HB 4015:*

For — Mike Gomez, Texas Municipal Police Association; (*Registered, but did not testify*: Nicholas Hudson, American Civil Liberties Union of Texas; Chris Kaiser, Texas Association Against Sexual Assault; John Dahill, Texas Conference of Urban Counties; Douglas Smith, Texas Criminal Justice Coalition; Yannis Banks, Texas NAACP; Alex Meed; Maria Person)

Against — None

On — (*Registered, but did not testify*: Dexter Jones, Texas Alcoholic Beverage Commission; William Mills, Sheriffs' Association of Texas)

BACKGROUND: Alcoholic Beverage Code, sec. 106.04(a) creates an offense for the consumption of alcohol by a minor. Section 106.05(a) creates an offense for the possession of alcohol by a minor.

DIGEST: SB 966 would establish that the offenses of consumption or possession of alcohol by a minor did not apply to a minor under certain circumstances involving the reporting of sexual assault. The defense could be raised by a minor who reported that the minor or another person was sexually assaulted or by a minor who was the victim of a sexual assault reported by another person if the report was made to:

- a health care provider treating the victim;
- a law enforcement employee, including an employee of a campus police department at a higher education institution; or
- a Title IX coordinator or other employee responsible for responding to sexual assault at a higher education institution.

A minor would be entitled to raise the defense only if the minor was consuming or in possession of alcohol at the time the reported sexual assault took place. The defense would not be available to a minor who committed sexual assault.

The bill would take effect September 1, 2017, and would apply only to an offense that occurred on or after that date.

**SUPPORTERS
SAY:**

SB 966 would provide a much-needed safe harbor to victims of sexual assault who may be afraid of reporting an assault because of the criminal consequences of alcohol use prior to the assault. Individuals who have experienced such a trauma should not have to choose between coming forward and risking prosecution for a crime. This bill would help foster a positive change in the culture of reporting and investigating sexual assaults, especially on college campuses.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

A companion bill, HB 4015 by Neave, was reported favorably as substituted by the House Committee on Criminal Jurisprudence on May 1 and recommended for the Local and Consent Calendar.