

SUBJECT: Allowing certain evidence in prosecutions for exploitation offenses

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Collier, Zedler, K. Bell, J. González, Hunter, P. King, Moody, Murr, Pacheco

0 nays

WITNESSES: For — Stephanie Martin, Dallas County District Attorney's Office; (*Registered, but did not testify*: M. Paige Williams, Dallas County Criminal District Attorney John Creuzot; Vincent Giardino, Tarrant County Criminal District Attorney's Office; Idona Griffith)

Against — David Gonzalez, Texas Criminal Defense Lawyers Association (*Registered, but did not testify*: Jim Baxa)

BACKGROUND: Penal Code sec. 32.53 makes it a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) to intentionally, knowingly, or recklessly cause the exploitation of a child, elderly individual, or disabled individual. Exploitation is defined to mean the illegal or improper use of a child, elderly individual, or disabled individual or of the resources of a child, elderly individual, or disabled individual for monetary or personal benefit, profit, or gain.

Interested parties have noted that individuals who commit the offense of exploitation often have engaged in similar patterns of behavior, and that prosecutions should be allowed to consider evidence of such conduct.

DIGEST: CSHB 2875 would allow prosecutions of the crime of exploitation of a child, elderly individual, or disabled individual to include evidence that the defendant engaged in other conduct similar to the alleged criminal conduct to show the defendant's knowledge or intent regarding an element of the offense.

Rule 403, Texas Rules of Evidence, which allows judges to exclude

certain types of evidence, would apply in these cases. The bill would not permit the presentation of evidence about character that would otherwise be inadmissible under the Texas Rules of Evidence or other law.

The bill would take effect September 1, 2019, and would apply to the admissibility of evidence in a proceeding that began on or after that date.