

SUBJECT: Creating criminal offense for boating while intoxicated with a child

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Collier, K. Bell, Cason, Cook, Crockett, Hinojosa, A. Johnson, Murr, Vasut

0 nays

WITNESSES: For — Eric Carcerano, Chambers County District Attorney's Office; Tiana Sanford, Montgomery County District Attorney's Office; (*Registered, but did not testify*: Jennifer Tharp, Comal County Criminal District Attorney; M. Paige Williams, for Dallas County Criminal District Attorney John Creuzot; Linda Nuno, Dem Party; Alison Baimbridge, Fort Bend County District Attorney's Office; David Sinclair, Game Warden Peace Officers Association; Lindy Borchardt, for Sharen Wilson, Tarrant County Criminal District Attorney; John Wilkerson, Texas Municipal Police Association; Aldo Caldo; Deana Johnston)

Against — (*Registered, but did not testify*: Shea Place, Texas Criminal Defense Lawyers Association)

On — (*Registered, but did not testify*: Bryan Baronet, Texas Parks and Wildlife)

BACKGROUND: Penal Code sec. 49.06 makes boating while intoxicated a crime. Offenses are class B misdemeanors (up to 180 days in jail and/or a maximum fine of \$2,000) with a minimum 72 hour term of confinement. Under Penal Code sec. 49.09, repeat intoxication offenses can carry higher penalties.

DIGEST: HB 2505 would create a new offense for boating while intoxicated with a child. It would be a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000) to be intoxicated while operating a watercraft with a passenger younger than 15 years.

The offense would be added to provisions that make repeat intoxication

offenses carry higher penalties. It also would be included in several other provisions that relate to intoxication offenses and currently include boating while intoxicated, including provisions on minors operating a watercraft under the influence of alcohol, use of ignition interlock devices, warrants for blood specimens after an arrest, eligibility for community supervision, suspension of drivers' licenses, and the taking of breath or blood specimens.

The bill would take effect September 1, 2021, and to the extent of any conflict, it would prevail over another act of the 87th Legislature, Regular Session, 2021, relating to nonsubstantive additions to and corrections in enacted codes.

**SUPPORTERS
SAY:**

CSHB 2505 would help protect Texas children and treat boating while intoxicated with a child with the seriousness it deserves by creating an offense to cover this conduct. Currently, Texas has an offense for driving while intoxicated with a child, but not an analogous one for boating while intoxicated with a child. These two offenses present similar harm to youths and should be treated the same with a separate offense carrying a higher penalty for endangering a child. CSHB 2505 would close this gap in Texas law by treating the conduct of boating while intoxicated with a child the same way the state treats driving while intoxicated with a child.

**CRITICS
SAY:**

Current penalties for boating while intoxicated are adequate to punish and deter this offense and repeat offenses carry higher penalties. The state should be cautious about creating new criminal offenses that can be handled by existing statute.