

BILL ANALYSIS

Senate Research Center
77R6113 PEP-D

C.S.S.B. 21
By: Shapiro
Criminal Justice
2/15/2001
Committee Report (Substituted)

DIGEST AND PURPOSE

Currently under Texas law, it is not considered a crime to attempt to solicit or purchase a controlled substance. As proposed, C.S.S.B. 21 establishes an offense if the person is younger than 21 years of age and, with intent that an offense under Chapter 481 (Texas Controlled Substances Act), Health and Safety Code, for the delivery of a controlled substance be committed, the person requests, commands, or attempts to induce another to engage in specific conduct that, under the circumstances surrounding the other person's conduct as the actor believes them to be, would constitute the offense or make the other a party to its commission.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 15.03, Penal Code, by amending Subsections (a) and (d) and adding Subsections (e)-(h), as follows:

(a) Provides that a person commits an offense if:

(1) with intent that a capital felony or felony of the first degree be committed, the person requests, commands, or attempts to induce another to engage in specific conduct that, under the circumstances surrounding the other person's conduct, would constitute the felony or make the other a party to its commission; or

(2) the person is younger than 21 years of age and, with intent that an offense under Chapter 481 (Texas Controlled Substances Act), Health and Safety Code, for the delivery of a controlled substance be committed, the person request, commands, or attempts to induce another to engage in specific conduct that, under the circumstances surrounding the other person's conduct as the actor believes them to be, would constitute the offense or make the other a party to its commission.

(d) Provides that an offense under Subsection (a)(1) is a felony of the first degree or the second degree.

(e) Provides that an offense under Subsection (a)(2) is a Class C misdemeanor.

SECTION 2. Amends Chapter 45B, Code of Criminal Procedure, by adding Article 45.0512, as follows:

Art. 45.0512. DEFERRED DISPOSITION PROCEDURES APPLICABLE TO CERTAIN CONTROLLED SUBSTANCES OFFENSES. (a) Provides that this article supplements Article 45.051, as amended by Chapters 1387 and 1545, Acts of the 76th Legislature, Regular

Session, 1999. Requires the court, on the request of a defendant charged with an offense under Section 15.03(a)(2), Penal Code, to defer further proceedings without entering an adjudication of guilt and place the defendant on probation for a period not to exceed 180 days.

(b) Requires the judge, during the deferral period, to order certain penalties for the defendant.

(c) Requires community service ordered under Subsection (b) to be related to education about or prevention of misuse of controlled substances if programs or services providing that education are available in the community in which the court is located. Authorizes the court, if programs or services providing that education are not available, to order community service that it considers appropriate for rehabilitative purposes.

(d) Provides that for the purposes of determining whether a defendant has been previously convicted of an offense under Section 15.03(a)(2), Penal Code, an order of deferred disposition for an offense under that subsection is considered a conviction of the offense.

(e) Provides that a driver's license suspension under Subsection (b) takes effect on the 11th day after the date of conviction.

(f) Prohibits, if the complaint against a person charged with an offense under Section 15.03(a)(2), Penal Code, is dismissed under Article 45.051(Suspension of Sentence and Deferral of Final Disposition), notwithstanding Article 45.051(c), the special expense imposed on dismissal from exceeding one-half of the fine initially imposed.

SECTION 3. Provides that the change in law made by this Act applies only to an offense committed or conduct engaged in on or after the effective date of this Act. Provides that an offense committed or conduct engaged in before the effective date of this Act is covered by the law in effect when the offense was committed or the conduct was engaged in, and the former law is continued in effect for that purpose. Provides that for the purposes of this section, an offense was committed or conduct was engaged in before the effective date of this Act if any element of the offense or conduct occurred before the date.

SECTION 4. Effective date: September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

SECTION 1. Differs from first committee substitute by deleting proposed text regarding imposing a fine and performing community service, suspension of a driver's license and ordered community service related to education of prevention of use of controlled substances. Deletes language regarding previous convictions and the date a driver's license suspension takes effect.

SECTION 2. Differs from the first committee substitute by adding language regarding supplementation of Article 45.051 and deferral of guilt and entering an adjudication of guilt and placing on probation. Adds text regarding performance of community service, attendance of a substance abuse awareness course, suspension of driver's license, and ordered community service related to education of prevention of use of controlled substances. Adds text regarding previous convictions, the date a driver's license suspension takes effect, and the special expense imposed on dismissal from exceeding one-half of the fine initially imposed.

SECTION 3. Is the same as SECTION 2 in first substitute.

SECTION 4. Is the same as SECTION 3 in first substitute.