

BILL ANALYSIS

Senate Research Center

H.B. 253
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 253 amends the Code of Criminal Procedure to include bigamy among the offenses for which the statute of limitations is seven years from the date of the commission of the offense, except that the statute of limitation for such an offense is 10 years from the 18th birthday of the victim of the offense if the person, other than the legal spouse of the defendant, whom the defendant marries or purports to marry or with whom the defendant lives under the appearance of being married is younger than 18 years of age at the time the offense is committed.

This bill includes among the conditions under which a court is authorized to issue a temporary restraining order in a suit by the Department of Family and Protective Services (DFPS) for the removal of an alleged perpetrator of child abuse that DFPS's petition states facts sufficient to satisfy the court that the parent or other adult with whom the child will continue to reside in the child's home is likely to make a reasonable effort to monitor the residence and report to DFPS and the appropriate law enforcement agency any attempt by the alleged perpetrator to return to the residence.

H.B. 253 amends the Health and Safety Code to enhance the penalty from a Class C misdemeanor to a Class A misdemeanor for an offense of failing to perform a duty relating to filing a birth certificate or report of birth as required by law.

H.B. 253 amends current law relating to the protection of children by ensuring reports of abuse or neglect, protecting children from abuse and neglect, ensuring that births are reported, and prosecuting the offense of bigamy and provides criminal penalties.

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 Article 12.01, Code of Criminal Procedure, as follows:

Art. 12.01. FELONIES. Authorizes felony indictments, except as provided in Article 12.03 (Aggravated Offenses, Attempt, Conspiracy, Solicitation, Organized Criminal Activity), to be presented within certain limits, and not afterward, including within seven years from the date of the commission of certain offenses, including bigamy under Section 25.01 (Bigamy), Penal Code, except as provided by Subdivision (6) (relating to offenses within a limit of ten years from the 18th birthday of the victim of the offense); and within ten years from the 18th birthday of the victim of certain offenses, including bigamy under Section 25.01, Penal Code, if the investigation of the offense shows that the person, other than the legal spouse of the defendant, whom the defendant marries or purports to marry or with whom the defendant lives under the appearance of being married is younger than 18 years of age at the time the offense is committed.

SECTION 2. Amends Section 262.1015(b), Family Code, to authorize a court to issue a temporary restraining order in a suit by the Department of Family and Protective Services (DFPS) for the removal of an alleged perpetrator under Subsection (a) (requiring DFPS to file a

petition for the removal of an alleged perpetrator from the residence of the child rather than attempt to remove the child from the residence) if DFPS's petition states facts sufficient to satisfy the court that certain conditions are met, including that the parent or other adult with whom the child will continue to reside in the child's home is likely to make a reasonable effort to monitor the residence, and will report to DFPS and the appropriate law enforcement agency any attempt by the alleged perpetrator to return to the residence.

SECTION 3. Amends Section 195.004, Health and Safety Code, by amending Subsection (d) and adding Subsection (d-1), as follows:

(d) Provides that, except as provided by Subsection (d-1), an offense under this section is a Class C misdemeanor. Makes a nonsubstantive change.

(d-1) Provides that an offense under this section for failure to perform a duty required by Section 192.003 (Birth Certificate Filed or Birth Reported) is a Class A misdemeanor.

SECTION 4. Amends Section 25.01(e), Penal Code, to provide that an offense under this section is a felony of the third degree, except that if at the time of the commission of the offense, the person whom the actor marries or purports to marry or with whom the actor lives under the appearance of being married is 17 years of age, rather than 16 years of age or older, the offense is a felony of the second degree; or 16 years of age or younger, the offense is a felony of the first degree.

SECTION 5. Makes application of the change in law made by this Act to Section 25.01, Penal Code, prospective.

SECTION 6. Provides that the change in law made by this Act to Article 12.01, Code of Criminal Procedure, does not apply to an offense if the prosecution of that offense becomes barred by limitation before the effective date of this Act. Provides that the prosecution of that offense remains barred as if this Act had not taken effect.

SECTION 7. Makes application of the change in law made by this Act to Section 262.1015(b), Family Code, prospective.

SECTION 8. Effective date: September 1, 2011.