

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2159
By: Moody (Huffman)
Criminal Justice
5/21/2015
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.H.B. 2159 amends current law relating to requiring the payment of restitution as a condition of community supervision for offenses involving family violence committed in the presence of certain children.

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 Chapter 42, Code of Criminal Procedure, by adding Article 42.0373, as follows:

Art. 42.0373. MANDATORY RESTITUTION FOR CHILD WITNESS OF FAMILY VIOLENCE. (a) Requires the court, if after a conviction or a grant of deferred adjudication a court places a defendant on community supervision for an offense involving family violence, as defined by Section 71.004 (Family Violence), Family Code, to determine from the complaint, information, indictment, or other charging instrument, the presentence report, or other evidence before the court whether:

(1) the offense was committed in the physical presence of, or in the same habitation or vehicle occupied by, a person younger than 15 years of age; and

(2) at the time of the offense, the defendant had knowledge or reason to know that the person younger than 15 years of age was physically present or occupied the same habitation or vehicle.

(b) Requires the court to order the defendant to pay restitution in an amount equal to the cost of necessary rehabilitation, including medical, psychiatric, and psychological care and treatment, for a person described by Subsection (a)(1), if the court determines both issues described by Subsection (a) in the affirmative.

(c) Requires the court, after considering the financial circumstances of the defendant, to specify in a restitution order issued under Subsection (b) the manner in which the defendant must pay the restitution. Requires that the order require restitution payments to be delivered in the manner described by Article 42.037(g)(4)(iii) (relating to the deadline for the end of the period or the last installment).

(d) Authorizes a restitution order issued under Subsection (b) to be enforced by the state, or by a person or a parent or guardian of the person named in the order to receive the restitution, in the same manner as a judgment in a civil action.

(e) Authorizes the court to hold a hearing, make findings of fact, and amend a restitution order issued under Subsection (b) if the defendant fails to pay the person named in the order in the manner specified by the court.

(f) Prohibits a determination under this article from being entered as an affirmative finding in the judgment for the offense for which the defendant was placed on community supervision.

SECTION 2. Provides that the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2015.