

BILL ANALYSIS

Senate Research Center
76R11765 PEP-D

C.S.S.B. 6
By: Shapiro
Criminal Justice
4/9/1999
Committee Report (Substituted)

DIGEST

Currently, a dealer of illegal drugs may use a minor to sell the drugs to the minor's peers, but the law does not provide for prosecution against the dealer. The legislature could create an offense for when a person requests, commands, or attempts to induce a minor to engage in illegal conduct, or make a minor a party to the offense of delivery of the certain drugs. The "criminal solicitation of a minor" offense would be an offense one category below the punishment for delivery of the drug, which makes the offender ineligible for community supervision, certain releases on parole, and release on mandatory supervision. C.S.S.B. 6 creates criminal punishment guidelines for a defendant convicted of soliciting a minor to deliver a controlled substance.

PURPOSE

As proposed, C.S.S.B. 6 creates the offense of criminal solicitation of a minor.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 15.03, Penal Code, by amending Subsections (a) and (d) and adding Subsections (e) and (f), to provide that a person commits an offense if the person requests, commands, or attempts to induce another to engage in certain conduct that the actor believes to be a felony, and with the intent that an offense under Chapter 481, Health and Safety Code, for the delivery of a controlled substance be committed. Sets forth offenses under this section which are certain felonies, except as provided by Subsection (e). Sets forth the penalty groups for the punishment of the delivery of a controlled substance and for marihuana. Provides that the offense is a Class C misdemeanor, under certain conditions. Requires the offender who solicits the delivery of a controlled substance to be prosecuted under Section 15.031. Makes conforming and nonsubstantive changes.

SECTION 2. Amends Section 15.031(a), Penal Code, to provide that a person commits an offense if the offense is committed with the intent that an offense is punishable under Section 481.112(c)-(f), Health and Safety Code, or an offense listed by Section 3(g)(1)(A)-(H), Article 42.12, if the person requests, commands, or attempts to induce a minor to engage in specific conduct that, under the circumstances surrounding the actor's conduct as the actor believes them to be, would constitute the offense punishable under Section 481.112 or the offense listed by Section 3(g)(1), rather than Article 42.12, or make the minor a party to the commission of the offense punishable under Section 481.112 or the offense listed by Section 3(g)(1). Makes conforming changes.

SECTION 3. Amends Section 3g(a), Article 42.12, Code of Criminal Procedure, to provide that the provisions of Section 3 do not apply to Section 15.031, Penal Code, if the offense solicited by the actor is an offense punishable under Section 481.112(c)-(f), Health and Safety Code. Makes conforming changes.

SECTION 4. Amends Section 508.145(d), Government Code, to provide that an inmate serving a sentence for an offense described by Section 3g(a)(1)(I), Article 42.12, Code of Criminal Procedure, is not eligible for release on parole until a certain date.

SECTION 5. Amends Section 508.149(a), Government Code, to prohibit an inmate from mandatory supervision if the inmate committed a felony under Section 15.031, Penal Code, if the offense solicited by

the actor is an offense punishable under Section 481.112(c)-(f), Health and Safety Code.

SECTION 6. (a) Enacts Section 311.031(c), Government Code. Enacts Section 508.149(a), Government Code.

(b) Provides that this Act controls over any other Act of the 76th Legislature, to the extent of any conflict.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 1999.

SECTION 9. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 15.03, Penal Code, by amending Subsections (a) and (d) and adding Subsections (e) and (f) regarding the intent and punishment of certain offenses for certain controlled substances and marihuana.

Redesignates SECTIONS 1-8 as SECTIONS 2-9.