

HCS HB 1346 -- SEXUAL OFFENSES

SPONSOR: Conway (104)

COMMITTEE ACTION: Voted "Do Pass" by the Committee on Crime Prevention and Public Safety by a vote of 11 to 3.

This bill changes the laws regarding sexual offenses.

The bill establishes Carrie's Law that creates the crime of sexual exploitation by a person of higher authority, a class B misdemeanor. A person commits the crime if he or she holds himself or herself out to be in any higher authority than the victim and engages in sexual conduct with another person who is not his or her spouse and the sexual conduct occurred:

- (1) Following a documented pattern of efforts to seduce the victim over a period of time; and
- (2) During the course of a meeting in which the victim sought or received instruction, counseling, advice, therapy, aid, or comfort from the person or within 120 days after the meeting has ended; or
- (3) During a period of time in which the victim was meeting on an ongoing basis with the person of higher authority to seek or receive instruction, counseling, advice, therapy, aid, or comfort from the person; or
- (4) While the person was in a position of trust or authority over the victim and used that position of trust or authority to engage in the sexual conduct.

Consent by the victim is not a defense under these provisions.

If the person of higher authority used the relationship to solicit or collect anything of monetary value from the victim or on the victim's behalf or the monetary collection was solicited or required by the structure of the group bestowing the authority, the offense is a class A misdemeanor.

The bill specifies that a person commits the offense of unlawful Internet communication with a minor, a class A misdemeanor, if he or she has been previously found guilty of specified sexual offenses and he or she knowingly violates a condition of probation, parole, or supervised release that prohibits the person from using a social networking website or instant messaging or chat room program to communicate with a child younger than 16 years of age. Any subsequent offense is a class D felony. It is a defense to prosecution that the person reasonably believed that the child was

at least 16 years of age.

Currently, a person on the Sexual Offender Registry for specified offenses may file a petition after two years from the date that the offender was convicted, found guilty of, or pled guilty or nolo contendere to the offense for removal of his or her name from the registry if the person was 19 years of age or younger and the victim was 13 years of age or older at the time of the offense and no physical force or threat of force was used in the commission of the offense or to immediately file a petition to remove or exempt his or her name from the registry upon his or her conviction, finding, or plea if the person was 18 years of age or younger at the time of the offense and the same circumstances apply. The bill repeals those provisions and allows a registered sexual offender to file a petition to be removed from the registry after five years have passed from the date he or she was convicted of, found guilty of, or pled guilty or nolo contendere to the offense if he or she was 17 years of age or younger and was no more than five years older than the victim at the time of the offense, the victim is 18 years of age or older at the time the petition is filed, no physical force was used in the commission of the offense, and the offender successfully completes all court-ordered treatment.

Any person required to register as a sexual offender who was adjudicated as a juvenile for the crime for which he or she must register or who was under 18 years of age at the time of the commission of the offense requiring registration must not be subject to the provisions regarding his or her inclusion on the Internet web page of registered sexual offenders. Any person currently on the Internet web page who was younger than 18 years of age at the time of the commission of the offense must be immediately removed from the web page.

PROPONENTS: Supporters say that the bill holds those in positions of higher authority accountable for their actions.

Testifying for the bill was Representative Conway (104).

OPPONENTS: There was no opposition voiced to the committee.