

SUBJECT: Enhanced penalty for sex offender's harboring a runaway child.

COMMITTEE: Criminal Jurisprudence — Favorable without amendment(s)

VOTE: 6 ayes — Peña, Vaught, Escobar, Moreno, Pierson, Talton
0 nays
3 absent — Riddle, Hodge, Mallory Caraway

WITNESSES: None

BACKGROUND: Under Penal Code, sec. 25.06, harboring a runaway child is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

DIGEST: HB 347 would amend Penal Code, sec. 25.06 to increase the penalty for harboring a runaway child to a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) if the defendant was required to register as a sex offender when the offense took place.

The bill would take effect September 1, 2007.

SUPPORTERS SAY: HB 347 is necessary to protect runaway children from potential harm by sex offenders. Given their lack of shelter and resources, runaway children are at particular risk of being picked up and abused by sex offenders. The state's efforts to protect children from the dangers posed by sex offenders should extend to this especially vulnerable population. About 60 registered sex offenders were arrested for harboring a runaway in the last five years, according to the Department of Public Safety. HB 347 would place sex offenders on notice that they cannot harbor runaways without committing a serious felony offense.

HB 347 is designed to deter sex offenders from harboring runaways in the first place, which could prevent the infliction of additional harm or abuse. This would be far preferable to prosecuting a sex offender who committed subsequent offenses after taking in a runaway. The penalty in this bill would match third-degree felony punishments for other crimes that harm children, including kidnapping, injury to a child, and indecency with a child involving exposure. There are numerous ways that well-intentioned,

rehabilitated sex offenders could help runaways without harboring them.

OPPONENTS
SAY:

HB 347 is unnecessary because current law and penalties are adequate. Anyone — including a registered sex offender — who harbored a runaway child and then abused or harmed the child could be prosecuted for those subsequent crimes, which in virtually every case would carry a harsher punishment than a class A misdemeanor. For example, indecency with a child, sexual assault, and kidnapping all are felonies that could be used to punish a sex offender who harbored and then harmed a runaway.

The state should not continue to craft a special set of laws that apply only to sex offenders. This makes it difficult for sex offenders who are trying to rehabilitate themselves and follow the law to know what restrictions apply to them. It could be unfair to seek a felony conviction for a rehabilitated sex offender with no bad intentions who tried to help a runaway.