HOUSE
RESEARCH
ORGANIZATION bill analysis   5/9/2013

HB 1011
S. King
(CSHB 1011 by Herrero)

SUBJECT: Punishment for traveling to meet a minor solicited on the Internet

Relating to the punishment for the offense of online solicitation of a minor

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Herrero, Carter, Burnam, Canales, Leach, Moody, Schaefer, Toth

0 nays

1 absent — Hughes

WITNESSES: For — Craig Griffis, Taylor County Sheriff's Office; (*Registered, but did not testify*: Brian Eppes, Tarrant County District Attorney's Office; Washington Moscoso and Jimmy Rodriguez, San Antonio Police Officer's Association; Anne Olson, Texas Baptist Christian Life Commission; Jason Sabo, Children at Risk; Ballard C. Shapleigh, 34th District Attorney Jaime Esparza; Lori Griffis)

Against — None

On — (*Registered, but did not testify*: Shane Attaway, Office of the Attorney General)

BACKGROUND: Penal Code, sec. 33.021 makes the online solicitation of a minor a crime. Under sec. 33.021(c), it is an offense to use the Internet, electronic mail, text messages, other electronic message systems, or commercial online services to knowingly solicit a minor to meet another person with the intent that the minor will engage in sex.

These offenses are third-degree felonies (two to 10 years in prison and an optional fine of up to $10,000) unless the minor is younger than 14 years old or the person doing the soliciting believes that a minor younger than 14 years old is being solicited. In these cases, the offense is a second-degree felony (two to 20 years in prison and an optional fine of up to $10,000).

DIGEST: CSHB 1011 would increase the minimum prison term for second-degree

felony online solicitation of a minor from two years to five years, if a person, after soliciting the minor, traveled with the intent to meet the minor.

The bill would take effect September 1, 2013, and would apply to offenses committed on or after that date.

SUPPORTERS
SAY:

CSHB 1011 is needed to distinguish punishments for different types of offenses involving online solicitation of children so that those who take actions to meet children would be punished adequately. Currently all offenses involving using the Internet or other electronic means to solicit someone younger than 14 years old are second-degree felonies. This makes no distinction between those who seek out children online and those who also travel to meet the child.

CSHB 1011 would address this by establishing a minimum punishment, within the current range of two to 20 years, for those who escalate their behavior from online solicitation and take the next step to meet a child. Law enforcement officers would be able to go after offenders who got behind the wheel, not just those who got behind the keyboard. This would be especially helpful to smaller law enforcement agencies without the resources to conduct investigations based on computers or other technology. It also would clear up any question about using as evidence items found in the car that might be intended for use in the crime.

CSHB 1011 would not infringe on judicial discretion and would not represent a new policy in sentencing. The minimum required by the bill is at the low end of the second-degree penalty range, leaving plenty of room for judges and juries to decide on punishments for online solicitation of a minor that involves traveling. The Penal Code contains other minimum sentences, such as one for continuous sexual abuse of children and those for certain repeat offenders.

OPPONENTS
SAY:

Requiring mandatory minimum sentences within a penalty range would move Texas further away from jury and judge sentencing. Judges and juries have discretion to assess penalties within the existing felony ranges so that cases can be handled individually and justice can be served. With this structure, less culpable behavior can be punished near the lower end of the range and more heinous acts at the upper range. Under current law, online solicitation cases that involved traveling to meet a child could receive any sentence within the range of two to 20 years.