

SUBJECT: Increasing penalties for possession, promotion of child pornography

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — K. Bell, Cook, Hinojosa, A. Johnson, Murr, Vasut

2 nays — Collier, Cason

1 absent — Crockett

WITNESSES: For —Lindsey Dula, Alliance For Children; Carrie Paschall, Dallas Children's Advocacy Center and CACTX; Tony Godwin; Brandon Poor; (*Registered, but did not testify*: Chara McMichael, BCFS Health and Human Services Human Trafficking Interdiction; Jamey Caruthers, Children at Risk; Frederick Frazier, Dallas Police Association/FOP716 State FOP Director; James Parnell, Dallas Police Association; George Craig, Houston Police Department; Ray Hunt, HPOU; Jo Cassandra Cuevas, Operation Texas Shield; Jimmy Rodriguez, San Antonio Police Officers Association; Lori Henning, Texas Association of Goodwills; John Wilkerson, Texas Municipal Police Association; Thomas Parkinson)

Against — None

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

BACKGROUND: Penal Code sec. 43.26 makes possession or promotion of child pornography a criminal offense. Offenses for possession of child pornography are third-degree felonies (two to 10 years in prison and an optional fine of up to \$10,000) with second offenses being second-degree felonies (two to 20 years in prison and an optional fine of up to \$10,000). Offenses are first-degree felonies (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000) if it is shown on the trial of the offense that the person had been previously convicted of the offense two or more times.

Offenses for promotion of child pornography are second-degree felonies. Offenses are first-degree felonies if it is shown on the trial of the offense that the person had been previously convicted of the offense.

Concerns have been raised that the current penalties associated with possession or promotion of child pornography do not reflect the seriousness of the crimes.

DIGEST:

CSHB 3110 would rename the offense of "possession or promotion of child pornography" to be "possession or promotion of child sexual abuse material" and would increase the penalties for the offense.

First offenses for possession of materials would be second-degree felonies (two to 20 years in prison and an optional fine of up to \$10,000) and subsequent offenses would be first-degree felonies (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000). First offenses for promotion would remain second-degree felonies but would have a new requirement for a minimum five-year prison term.

CSHB 3110 would add the offense to the list of those for which judges and juries cannot order community supervision.

The bill would take effect September 1, 2021, and would apply to offenses committed on or after that date.