

**SUBJECT:** Second offense contact indecency with a child triggering life sentence

**COMMITTEE:** Criminal Jurisprudence — favorable, without amendment

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

**SENATE VOTE:** On final passage, March 29 — 30-0

**WITNESSES:** (*On companion bill, HB 1597 by Rose:*)  
For — Catherine Evans, Harris County District Attorney’s Office, Patrick McNelis, Travis County District Attorney; (*Registered, but did not testify:* Thomas Keress, Sheriff’s Association of Texas, Greg Miller, Tarrant County District Attorney’s Office; Randall Sims, 47th District Attorney’s Office (Potter/Armstrong Counties))  
  
Against — (*Registered, but did not testify:* Celeste Villarreal, Texas Criminal Defense Lawyers Association)  
  
On — (*Registered, but did not testify:* Shannon Edmonds, Texas District and County Attorneys Association)

**BACKGROUND:** Penal Code, sec. 12.42(c) establishes penalties for certain repeat sex offenses. A life sentence is automatic for offenders convicted of sexual assault, aggravated sexual assault, aggravated kidnapping involving intent to violate or abuse sexually, and first-degree burglary committed with intent to commit certain sex offenses if the offender has a previous conviction for these offenses or for indecency with a child, sexual performance by a child, possession or promotion of child pornography, obscenity involving children, or prohibited sexual conduct.  
  
Inmates sentenced to life in prison are eligible for parole only after serving 35 years, without consideration of time off for good conduct. Parole can be granted to these offenders only when approved by at least five of the seven members of the Board of Pardons and Paroles.

**DIGEST:** SB 75 would expand the current requirement that certain repeat sex offenders be given automatic life sentences. The bill would add indecency with a child involving sexual contact (Penal Code, sec. 21.11(a)(1)) to the list of offenses that would trigger an automatic life sentence if the offender had a previous conviction for certain sex offenses.

The bill would take effect September 1, 2007, and would apply only to offenses committed on or after that date.

**SUPPORTERS SAY:** SB 75 would close a loophole in current law by adding indecency with a child involving sexual contact to the list of offenses that would trigger automatic life sentences for repeat sex offenders. Under the current two-strikes law, offenders who commit two specified sex crimes receive the automatic life sentence. However, the list of crimes that trigger the automatic life sentences includes for the first offense — but not the second — indecency with a child.

SB 75 would close this loophole by adding indecency with a child involving sexual contact to the list of second offenses that could result in an automatic life sentence. This would help ensure that all appropriate sex offenses could be either the first or second offense needed to qualify for the habitual offenders punishment. SB 75 would limit the indecency crimes for the second offense to those involving sexual contact so that it captured only the most appropriate and serious offenses. Committing indecency with a child repeatedly warrants being part of the two-strikes policy on either a first or second offense.

**OPPONENTS SAY:** The state should not expand the two-strikes law that would result in automatic life sentences for more defendants. Sentences of automatic life-in-prison reduce court discretion and can result in unfair punishments for some offenders.