

SUBJECT: Higher penalty for repeat offense of employment harmful to children

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Gallego, Christian, Fletcher, Miklos, Moody, Riddle, Vaught,
Vo

0 nays

3 absent — Hodge, Kent, Pierson

SENATE VOTE: On final passage, May 7 — 31-0 on Local and Uncontested Calendar

WITNESSES: (*On House companion bill, HB 124:*)
For — Torie Camp, Texas Association Against Sexual Assault;
MerryLynn Gertenschlager, Texas Eagle Forum; (*Registered, but did not
testify:* Katrina Daniels, Bexar County District Attorney's Office; Tom
Gaylor, Texas Municipal Police Association; Craig Johnson; Joel
Littlefield, Hunt County Attorney's Office)

Against — (*Registered, but did not testify:* Matthew Simpson, ACLU of
Texas)

On — Kent Richardson, Texas Attorney General's Office

BACKGROUND: Under Penal Code, sec. 43.251, a person who employs, authorizes, or
induces a person under 18 years of age to work in a sexually-oriented
commercial activity, or any place of business that permits, requests, or
requires a child to work nude or topless, commits the offense of
employment harmful to children. An offense is a class A misdemeanor (up
to one year in jail and/or a maximum fine of \$4,000).

DIGEST: SB 710 would amend Penal Code, sec. 43.251 to make a second or
subsequent offense of employment harmful to children a third-degree
felony (two to 10 years in prison and an optional fine of up to \$10,000).

The bill would take effect September 1, 2009, and would apply only to
offenses committed on or after that date.

SUPPORTERS
SAY:

By increasing the penalty for repeatedly employing a child in a sexually oriented commercial activity, SB 710 would encourage employers to determine more diligently that they do not employ minors. Unscrupulous employers would be deterred from employing children, and other employers would be more stringent about age verification. In the case of repeat offenders, enhanced penalties would be justified.

SB 710 would protect children by preventing exposure to sexually oriented employment. Children exposed to sexually explicit media content have negatively shaped sexual values, are prematurely sexualized, are encouraged to experiment with risky behavior, and are at a higher risk for victimization, exploitation, and sexually transmitted diseases. The negative effects of live, sexually-explicit content are almost certainly more severe.

OPPONENTS
SAY:

Penalty enhancements should be a last resort, since enhancement is the least effective approaches — once something is illegal, making it more illegal does little to reduce the number of people who do it.

OTHER
OPPONENTS
SAY:

Current law punishes possession and promotion of child pornography as a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000). The penalty for all offenses of employing children in sexually oriented businesses should also carry the same penalty.

NOTES:

The House companion bill, HB 124 by Jackson, passed the House by 146-0 on May 6 and was referred to the Senate Criminal Justice Committee on May 12.