

SUBJECT: Increasing criminal penalties for possession of child pornography

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Moody, Cook, Bhojani, Bowers, Darby, Harrison, C. Morales, Schatzline

0 nays

1 absent — Leach

SENATE VOTE: On final passage (April 20) — 31 - 0

WITNESSES: For —Judy Price, 97th District Attorney’s Office; Natalie Ibe, True Texas Project; M Paige Williams (*Registered, but did not testify*: Casey Hall, 97th District Attorney; Carrie Moore, CDF, Nueces Co/ Texas Ed 911; Eric Carcerano, Chambers County District Attorney’s Office; Jennifer Tharp, Comal County Criminal District Attorney's Office; Jennifer Szimanski, Combined Law Enforcement Associations of Texas; Bryan Mitchell, Dallas County Criminal District Attorney John Creuzot; James Parnell, Dallas Police Association; David Batton, Harris County Deputies Organization FOP 39; Ray Hunt, Houston Police Officers’ Union; Carlos Ortiz, San Antonio Police Officers Association; Cindi Castilla, Texas Eagle Forum; John Wilkerson, Texas Municipal Police Association; John Chancellor, Texas Police Chiefs Association; Jennifer Allmon, The Texas Catholic Conference of Bishops; Susan Lamb; Thomas Parkinson; Harley Rosenberger)

Against — None

BACKGROUND: Some have suggested that current child pornography laws should be updated to reflect criminal trends and the use of technology.

DIGEST: SB 129 would amend provisions relating to the offense of possession or promotion of child pornography. The bill would specify that possession of child pornography would be a third-degree felony (two to 10 years in

prison and an optional fine of up to \$10,000) if the person possessed visual material that contained less than 100 visual depictions of a child who was younger than 18 and engaging in sexual conduct. If a person possessed visual material that contained between 100 and 500 depictions, the offense would be a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000). The offense would be a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000) if the person possessed visual material that contained 500 or more depictions. SB 129 would establish that possession of child pornography would be a first-degree felony punishable by life imprisonment or for any term between 25 and 99 years if, at the time of the offense, the person was:

- an employee at a child-care facility or a residential child-care facility;
- an employee at a residential treatment facility;
- an employee at a shelter or facility that served youth and received state funds; or
- receiving state funds for the care of a child depicted by the visual material.

If the visual material depicted a child younger than 10 years old or if the defendant had been previously convicted of such an offense:

- an offense punishable by a second- or third-degree felony would be increased to the next higher category of offense; or
- the minimum term of confinement for a first-degree felony would be increased to 15 years.

These provisions would apply only to an offense committed on or after the bill's effective date.

SB 129 would establish that the statute of limitations period for the possession or promotion of child pornography would be seven years. This provision would not apply to an offense if the prosecution of the offense became barred by limitation before the bill's effective date.

To the extent of any conflict, this bill would prevail over another bill of the 88th Legislature.

The bill would take effect September 1, 2023.