

BILL ANALYSIS

Senate Research Center
80R4199 SLO-D

S.B. 634
By: Hegar
Criminal Justice
4/5/2007
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, defendants charged with possession or promotion of child pornography are able to retain copies of the evidence against them, including child pornography.

As proposed, S.B. 634 prohibits defendants from retaining child pornography. The defendant, his or her counsel, and any witness they wish to provide expert testimony would all retain the right to review and consider the evidence at the office of the attorney representing the state.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 39, Code of Criminal Procedure, by adding Article 39.15, as follows:

Art. 39.15. EVIDENCE THAT CONSTITUTES CHILD PORNOGRAPHY. (a) Defines "child pornography."

(b) Requires any property or material that constitutes child pornography to remain in the care, custody, and control of either the court or the attorney representing the state.

(c) Requires a court, notwithstanding Article 39.14 (Discovery) or any other provision of this code, to deny a request by a defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that constitutes child pornography, provided that the attorney representing the state makes the property or material reasonably available to the defendant.

(d) Provides that property or material, for purposes of Subsection (c), is considered to be reasonably available to the defendant if, at the court or the office of the attorney representing the state, the attorney provides sufficient opportunity for the inspection, viewing, and examination of the property or material by the defendant, the defendant's attorney, or any person the defendant seeks to qualify to provide expert testimony at the trial.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2007.