

BILL ANALYSIS

Senate Research Center
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H.B. 2539
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Due to recent technological advancements, information has become readily accessible and available via the Internet. However, this increase in access to information has also led to increased access to child pornography, which is illegal under both state and federal law.

Cases of child exploitation often go unreported or unprosecuted due to the anonymous nature of the Internet and computer hard drives. While federal, state, and local agencies work to combat child pornography through underground sting operations and other aggressive measures and are effectively identifying, catching, and prosecuting sexual predators, child pornography discovered by computer service technicians often goes unreported, partly due to the fact that current Texas law does not require a computer service technician to report such a discovery.

Interested parties contend that several other states have enacted laws requiring computer or information technology technicians to report child pornography found on personal computers during the normal course of repair.

H.B. 2539 amends current law relating to requiring computer technicians to report images of child pornography and provides a criminal penalty.

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 Subtitle C, Title 5, Business & Commerce Code, by adding Chapter 109, as follows:

CHAPTER 109. COMPUTER TECHNICIANS REQUIRED TO REPORT CHILD PORNOGRAPHY

Sec. 109.001. DEFINITIONS. Defines "child pornography," "commercial mobile service provider," "computer technician," "information service provider," "sexual conduct," "sexual performance," and "telecommunications provider" in this section.

Sec. 109.002. REPORTING OF IMAGES OF CHILD PORNOGRAPHY. (a) Requires a computer technician who, in the course and scope of employment or business, views an image on a computer that is or appears to be child pornography to immediately report the discovery of the image to a local or state law enforcement agency or the Cyber Tipline at the National Center for Missing and Exploited Children. Requires the report to include the name and address of the owner or person claiming a right to possession of the computer, if known, and as permitted by federal law.

(b) Prohibits a computer technician, except in a case of willful or wanton misconduct, from being held liable in a civil action for reporting or failing to report the discovery of an image under Subsection (a).

(c) Prohibits a telecommunications provider, commercial mobile service provider, or information service provider from being held liable under this chapter for the failure to report child pornography that is transmitted or stored by a user of the service.

Sec. 109.003. CRIMINAL PENALTY. (a) Provides that a person who intentionally fails to report an image in violation of this chapter commits an offense. Provides that an offense under this subsection is a Class B misdemeanor.

(b) Provides that it is a defense to prosecution under this section that the actor did not report the discovery of an image of child pornography because the child in the image appeared to be at least 18 years of age.

SECTION 2. Effective date: September 1, 2013.