

## **BILL ANALYSIS**

H.B. 235  
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Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Sex offenders commonly use pornography and obscenity to "groom" children, thereby peaking the child's interest in sexual activities and desensitizing them to aggressive sexual solicitation. There is a well documented association between child pornography/child obscenity and sexual offending.

House Bill 235 creates an offense of intentionally or knowingly displaying or distributing obscene material to a child younger than 18 years of age. This new offense is a state jail felony, which would be an enhancement from the existing obscene display or distribution statute, which is currently a Class C misdemeanor. This new offense carries an affirmative defense to prosecution identical to the one found in the sexual assault statutes. H.B. 235 also makes this new offense applicable under the habitual offender enhancements and under the list of sex offenses that require sex offender registration for life.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

House Bill 235 amends the Penal Code to make it an offense to intentionally or knowingly display or distribute obscene material when a child who is known to be under the age of 18 is present during display or distribution.

The bill also repeats the same affirmative defense to prosecution currently existing in sexual assault statute; that the actor at the time of offense was the spouse of the victim, or that the victim is 14 years old or older and the actor at the time was no more than 3 years older than the victim, and of the opposite sex, and did not use force or threat against victim, and was not a registered sex offender.

H.B. 235 makes this new offense applicable under the habitual offender enhancements in Section 12.42 of the Penal Code, and under the list of sex offenses that require a sex offender to be registered for life in the Code of Criminal Procedure.

### **EFFECTIVE DATE**

September 1, 2003.