

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**May 23, 2003**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: HB236** by West, George "Buddy" (Relating to the punishment for the offense of obscenity and to certain consequences related to convictions for certain sex offenses.), **Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Penal Code by enhancing the punishment by one degree for the promotion of obscene material that depicts a real child under the age of 18 or is an image that to a reasonable person would be virtually indistinguishable from the image of a child younger than 18 years of age. The bill would also enhance the punishment for wholesale promotion or promotion of an obscene image created, adapted, or modified to be the image of an identifiable child. Wholesale promotion of such material is a third degree felony, while simple promotion is a state jail felony. The bill would also make the obscenity offenses applicable under the habitual offender enhancements of the Penal Code. The bill would also enhance the punishment for the offense of sale or purchase of child if the offense involved the sexual performance of a child. The bill would further specify a duty to report the development or processing of visual materials described in the bill and would amend the definition of contraband to include such materials. The Code of Criminal Procedure would be amended regarding the use of the laws of a foreign country as reportable convictions.

It is assumed that the additional number of offenders convicted under this statute would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated. Local jail costs would decrease because those arrested for this offense would be remanded to state instead of local custody, but the savings would be very small because of the small number of cases prosecuted.

**Source Agencies:** 696 Department of Criminal Justice

**LBB Staff:** JK, WK, GG, KG