

BILL ANALYSIS

C.S.H.B. 2228
By: McCall
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, an individual who arranges a meeting over the Internet with a child for the purposes of having some type of sexual activity must first physically appear at the meeting place in order to be charged with a crime. As a result, the State is unable to prosecute sexual predators who attempt to solicit a minor, or a police officer posing as a minor, for unlawful sexual activity when the individual does not show up for the meeting.

C.S.H.B. 2228 amends the Penal Code to allow for the filing of charges against individuals who engage in conversations over the Internet with the intent of meeting the child for sexual activity before any physical contact takes place.

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

C.S.H.B. 2228 amends the Penal Code by adding Section 33.021 to create a state jail felony if an individual communicates in a sexually explicit manner with a minor or distributes sexually explicit material to a minor over the Internet or by electronic mail or a commercial online service. C.S.H.B. 2228 creates a third degree felony if an individual solicits a minor for sexual activity over the Internet or by electronic mail or a commercial online service even if the meeting did not occur or was not intended to occur. Either offense is a second degree felony if the minor is younger than 14 or believed to be younger than 14. This provision will not apply if (1) the individual was married to the minor or if (2) the individual was not more than three years older than the minor and the contact was consensual.

C.S.H.B. 2228 further amends Section 62.01(5) of the Code of Criminal Procedure to include this offense into the definition of "Reportable conviction or adjudication" for sex offender registration purposes.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original in that the substitute amends the definition of "minor" under Section 33.021(1)(A) by deleting "who is younger than 17 years of age" and inserting "who represents himself or herself to be younger than 17 years of age."

The substitute inserts the language "in a sexually explicit manner" after "communicates" on page 1, line 21.

The substitute deletes the language "for the purpose of engaging in" on page 2, line 2 in the original, and inserts "with the intent that the minor will engage in."

The substitute deletes the words "two years older" and inserts "three years older" in subsection (e).

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The substitute adds "or both" after "the other law" in subsection (g).

The substitute inserts a new SECTION 2 amending the definition of "Reportable conviction or adjudication" in the Code of Criminal Procedure to include persons convicted under this offense to register as a sex offender.