

By: McCall

H.B. No. 2228

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation of the offense of on-line sexual
3 solicitation of a minor.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 33, Penal Code, is amended by adding
6 Section 33.021, Penal Code, to read as follows:

7 Sec. 33.021. ON-LINE SOLICITATION OF A MINOR. (a) In this
8 section:

9 (1) "Minor" means:

10 (A) an individual who is younger than 17 years of
11 age; or

12 (B) an individual who the actor believes to be
13 younger than 17 years of age.

14 (2) "Sexual contact," "sexual intercourse," and
15 "deviate sexual intercourse" have the meanings assigned by Section
16 21.01.

17 (b) A person commits an offense if, with the intent to
18 arouse or gratify the sexual desire of any person, the person, over
19 the Internet or by electronic mail or a commercial on-line service,
20 intentionally:

21 (1) communicates with a minor; or

22 (2) distributes sexually explicit material to a minor.

23 (c) A person commits an offense if the person, over the
24 Internet or by electronic mail or a commercial on-line service,

1 knowingly solicits a minor to meet another person, including the
2 actor, for the purpose of engaging in sexual contact, sexual
3 intercourse, or deviate sexual intercourse.

4 (d) It is not a defense to prosecution under Subsection (c)
5 that:

6 (1) the meeting did not occur; or

7 (2) the actor did not intend for the meeting to occur.

8 (e) It is a defense to prosecution under this section that
9 at the time conduct described by Subsection (b) or (c) was
10 committed:

11 (1) the actor was married to the minor; or

12 (2) the actor was not more than two years older than
13 the minor and the minor consented to the conduct.

14 (f) An offense under Subsection (b) is a state jail felony,
15 and an offense under Subsection (c) is a felony of the third degree,
16 except that an offense under Subsection (b) or (c) is a felony of
17 the second degree if the minor is younger than 14 years of age or is
18 an individual who the actor believes to be younger than 14 years of
19 age.

20 (g) If conduct that constitutes an offense under this
21 section also constitutes an offense under any other law, the actor
22 may be prosecuted under this section or the other law.

23 SECTION 2. This Act takes effect September 1, 2005.