

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 30, 2007

TO: Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB436 by Madden (Relating to the creation of the offense of continuous sexual abuse of a child, the prosecution and punishment of that offense, and the consequences of a conviction for that offense.), **Committee Report 1st House, Substituted**

The probable impact of implementing the bill cannot be determined due to the unavailability of reliable data or information related to the duration involved in the commission of sexual abuse offenses committed against children.

The bill would amend the Penal Code by creating the offense of continuous sexual abuse of young child or children. The offense would be committed if during a period that is 90 or more days in duration, the person commits the offense of aggravated kidnapping if the defendant committed the offense with the intent to violate or abuse the victim sexually, indecency with a child (engaging in sexual contact), sexual assault, aggravated sexual assault, burglary with the intent to violate or abuse the victim sexually, and sexual performance of a child. The offense would be punishable as a felony of the first degree, punishable by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years.

A person serving a sentence for the offense of continuous sexual abuse of young child or children would not be eligible for release on parole until serving, without consideration of good conduct time, equals one-half of the sentence or 30 calendar years, whichever is less, but in no event is the inmate eligible for release on parole in less than 25 calendar years. Mandatory supervision release would also not be a possibility.

The bill would amend the Civil Practice and Remedies Code relating to the offense of continuous sexual abuse of young child or children, relating to bringing suit for personal injury, causes of action, and maintaining a common nuisance.

The bill would amend the Code of Criminal Procedure by setting no limitation for felony indictments related to the offense of continuous sexual abuse of young child or children.

The bill would amend the Code of Criminal Procedure by not allowing a judge to grant deferred adjudication to an offender charged with the offense of continuous sexual abuse of young child or children.

The bill would also amend the Education Code by adding the offense of continuous sexual abuse of young child or children to sections which apply to sexually assaultive offenses.

The bill would amend the Family Code relating to confidentiality issues, involuntary termination of parent-child relationship, termination when pregnancy results from criminal act, and whether a parent has subjected a child to aggravated circumstances.

The bill would amend the Government Code relating to physician performed orchiectomy, extraordinary vote required to release on parole an inmate convicted of the offense of continuous sexual abuse of young child or children, halfway house eligibility, and parole supervision fees.

The bill would amend the Health and Safety Code and Occupations Code relating to employment restrictions for persons convicted of the offense of continuous sexual abuse of young child or children.

The bill would also amend the Penal Code relating to capital murder by including persons intentionally committing murder in the course of committing or attempting to commit the offense of continuous sexual abuse of young child or children.

For fiscal year 2006, The Texas Department of Criminal Justice admitted 2,444 individuals for sexual offenses committed against children. Assuming the same number of offenders in future years, the additional impact to criminal justice populations from the bill would vary greatly depending on the assumption regarding the duration involved in the commission of the sexual offenses, which would determine the number of times the offense of continuous sexual abuse of young child or children would apply. A check of TDCJ records, Department of Public Safety records, and Office of Court Administration records did not reveal any information that would help in an accurate assumption regarding the time duration of the offense; therefore, the probable impact of implementing the bill cannot be determined.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 507 Board of Nurse Examiners, 537 State Health Services, Department of, 696 Department of Criminal Justice

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