

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 24, 2011

TO: Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

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

IN RE: HB1309 by Craddick (Relating to the creation of the offense of possession or promotion of certain visual material depicting a minor and to certain educational programs concerning the prevention and awareness of that offense.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code to create a Class B misdemeanor offense related to the electronic transmission or possession of certain visual material by a minor that depicts a minor as defined by the provisions of the bill. The bill also would establish exceptions to the offense if a minor defendant, at the time of the offense, was the spouse of the minor depicted in the visual material; if the visual material is promoted or received only to or from a minor who is the defendant's spouse; or not a person who had a reportable conviction or adjudication, as defined by Chapter 62, Code of Criminal Procedure and was not more than three years older or younger and currently in a dating relationship with the minor depicted in the visual material. The bill would specify that an offense under this section is not a lesser included offense of an offense under Section 43.24 or 43.26.

A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both.

The bill would add Section 13H to the Code of Criminal Procedure to authorize a court that grants community supervision to a defendant who is convicted of or charged with an offense under Section 43.261 of the Penal Code, to require as a condition of community supervision that the defendant attend and successfully complete an educational program described by Section 37.218 of the Education Code, or another equivalent educational program.

The bill would add Section 54.0404 to the Family Code to authorize a juvenile court to order a child that is found to have engaged in conduct indicating a need for supervision to attend and successfully complete an educational program described by Section 37.218 of the Education Code, or another equivalent educational program. A juvenile court that enters an order shall require the child or the child's parent to pay the cost of the program if financially able.

The bill also would authorize a juvenile court or a probation department to require a child at sanction level one to attend and successfully complete an educational program described by Section 37.218 of the Education Code, or another equivalent educational program.

The bill would amend the Education Code to include definitions for bullying, cyberbullying, harassment, and sexual conduct. The Texas School Safety Center (TSSC) would be required, in consultation with Office of the Attorney General, to develop programs for schools that address possible legal and other consequences, including criminal penalties; the unique characteristics of the Internet and other electronic communications; and the connection between bullying, cyberbullying, and harassment related to transmitting certain visual material of a minor as defined by the provisions of the bill. TSSC would be required to develop the program by January 1, 2012. Each school district would be required to provide information on the programs developed and available to parents and students by any means necessary on an annual basis.

The bill would take effect September 1, 2011.

Local Government Impact

Costs associated with enforcement, prosecution and confinement, and revenue gain from fines imposed and collected would vary depending on the number of offenses committed; however, it is not anticipated to have a significant fiscal impact.

There could be additional administrative costs to a school district to annually provide the required program information to parents and students; however, it is not anticipated to be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 405 Department of Public Safety, 665 Juvenile Probation Commission, 701 Central Education Agency, 758 Texas State University System

LBB Staff: JOB, ESi, TP, JM, TB, MWU, RBl, YD