

SENATE AMENDMENTS

2nd Printing

By: Jackson, Anchia, Weber, Gallego

H.B. No. 290

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the punishment for the offense of employment harmful to
3 children.

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

5 SECTION 1. Section 43.251(c), Penal Code, is amended to
6 read as follows:

7 (c) An offense under this section is a Class A misdemeanor,
8 unless it is shown on the trial of the offense that the defendant
9 has previously been convicted under this section, in which event
10 the offense is a felony of the third degree.

11 SECTION 2. The change in law made by this Act applies only to
12 an offense committed on or after the effective date of this Act. An
13 offense committed before the effective date of this Act is covered
14 by the law in effect when the offense was committed, and the former
15 law is continued in effect for that purpose. For purposes of this
16 section, an offense was committed before the effective date of this
17 Act if any element of the offense was committed before that date.

18 SECTION 3. This Act takes effect September 1, 2011.

ADOPTED

MAY 25 2011

Atty. Gen.
Secretary of the Senate

By: *Joe Nelson*

H.B. No. 290

Substitute the following for H.B. No. 290:

By: *Rodney Ellis*

C.S.H.B. No. 290

A BILL TO BE ENTITLED

AN ACT

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2 relating to the punishment for the offense of employment harmful to
3 children.

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

5 SECTION 1. Section 43.251(c), Penal Code, is amended to
6 read as follows:

7 (c) An offense under this section is a Class A misdemeanor,
8 except that the offense is:

9 (1) a state jail felony if it is shown on the trial of
10 the offense that the defendant has been previously convicted one
11 time of an offense under this section; and

12 (2) a felony of the third degree if it is shown on the
13 trial of the offense that the defendant has been previously
14 convicted two or more times of an offense under this section.

15 SECTION 2. The change in law made by this Act applies only
16 to an offense committed on or after the effective date of this Act.
17 An offense committed before the effective date of this Act is
18 covered by the law in effect on the date the offense was committed,
19 and the former law is continued in effect for that purpose. For
20 purposes of this section, an offense was committed before the
21 effective date of this Act if any element of the offense occurred
22 before that date.

23 SECTION 3. This Act takes effect September 1, 2011.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 25, 2011

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: HB290 by Jackson, Jim (Relating to the punishment for the offense of employment harmful to children.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code to make the offense of employment harmful to children punishable as a state jail felony if the defendant has been previously convicted one time, and a felony of the third degree if the defendant has been previously convicted two or more times for the offense. The offense is currently punishable as a Class A Misdemeanor. The bill would take effect on September 1, 2011 and would apply to an offense committed on or after the effective date.

Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or longer terms of confinement in county jail, state jail or prison. When an offense is changed from a misdemeanor to a felony, there is a transfer of the burden of confinement and/or supervision of convicted offenders from the counties to the State. However, in the case of this bill, it is assumed that the 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.

Source Agencies:

LBB Staff: JOB, SD, ADM, ESi, GG, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 22, 2011

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

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

IN RE: HB290 by Jackson, Jim (Relating to the punishment for the offense of employment harmful to children.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code to make the offense of employment harmful to children punishable as a state jail felony if the defendant has been previously convicted one time, and a felony of the third degree if the defendant has been previously convicted two or more times for the offense. The offense is currently punishable as a Class A Misdemeanor. The bill would take effect on September 1, 2011 and would apply to an offense committed on or after the effective date.

Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or longer terms of confinement in county jail, state jail or prison. When an offense is changed from a misdemeanor to a felony, there is a transfer of the burden of confinement and/or supervision of convicted offenders from the counties to the State. However, in the case of this bill, it is assumed that the 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.

Source Agencies:

LBB Staff: JOB, ADM, ESi, GG, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 19, 2011

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

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

IN RE: HB290 by Jackson, Jim (Relating to the punishment for the offense of employment harmful to children.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code to make the offense of employment harmful to children punishable as a felony of the third degree if the defendant has a prior conviction for the offense. The offense is currently punishable as a Class A misdemeanor. The bill would take effect on September 1, 2011 and would apply to an offense committed on or after the effective date.

Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or, longer terms of confinement in county jails or prison. When an offense is changed from a misdemeanor to a felony, there is a transfer of the burden of confinement and/or supervision of convicted offenders from the counties to the State. It is assumed the number of persons convicted under this statute would not result in a significant impact on 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.

Source Agencies:

LBB Staff: JOB, ESi, GG, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 21, 2011

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

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

IN RE: HB290 by Jackson, Jim (Relating to the punishment for the offense of employment harmful to children.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code to make the offense of employment harmful to children punishable as a felony of the third degree if the defendant has a prior conviction for the offense. The offense is currently punishable as a Class A misdemeanor. The bill would take effect on September 1, 2011 and would apply to an offense committed on or after the effective date.

Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or, longer terms of confinement in county jails or prison. When an offense is changed from a misdemeanor to a felony, there is a transfer of the burden of confinement and/or supervision of convicted offenders from the counties to the State. It is assumed the number of persons convicted under this statute would not result in a significant impact on 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.

Source Agencies:

LBB Staff: JOB, ESi, GG, LM

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

82ND LEGISLATIVE REGULAR SESSION

May 22, 2011

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

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

IN RE: HB290 by Jackson, Jim (Relating to the punishment for the offense of employment harmful to children.), **Committee Report 2nd House, Substituted**

The bill would amend the Penal Code to make the offense of employment harmful to children punishable as a state jail felony if the defendant has been previously convicted one time, and a felony of the third degree if the defendant has been previously convicted two or more times for the offense. The offense is currently punishable as a Class A Misdemeanor.

A Class A Misdemeanor is punishable by confinement in county jail for a term not to exceed one year and/or a fine not to exceed \$4,000. A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years and, in addition to confinement, an optional fine not to exceed \$10,000 or Class A Misdemeanor punishment (mandatory post conviction community supervision). A felony of the third degree is punishable by confinement in prison for a term from 2 to 10 years and, in addition to confinement, an optional fine not to exceed \$10,000.

Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or longer terms of confinement in county jail, state jail or prison. When an offense is changed from a misdemeanor to a felony, there is a transfer of the burden of confinement and/or supervision of convicted offenders from the counties to the State. In fiscal year 2010, less than five offenders were arrested and less than five offenders were placed on misdemeanor community supervision for employment harmful to children; therefore, it is assumed the number of offenders convicted under this statute would not result in a significant impact on programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

Source Agencies:

LBB Staff: JOB, ADM, GG, LM

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

82ND LEGISLATIVE REGULAR SESSION

May 19, 2011

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

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

IN RE: HB290 by Jackson, Jim (Relating to the punishment for the offense of employment harmful to children.), **As Engrossed**

The bill would amend the Penal Code to make the offense of employment harmful to children punishable as a felony of the third degree if the defendant has a prior conviction for the offense. The offense is currently punishable as a Class A misdemeanor.

A Class A Misdemeanor is punishable by confinement in a county jail for any term of not more than one year, or, in addition to confinement, a fine not to exceed \$4,000. A felony of the third degree is punishable by imprisonment in the institutional division for any term of not more than 10 years or less than 2 years, or, in addition to confinement, a fine not to exceed \$10,000.

Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or, longer terms of confinement in county jails or prison. When an offense is changed from a misdemeanor to a felony, there is a transfer of the burden of confinement and/or supervision of convicted offenders from the counties to the State. In fiscal year 2010, less than five offenders were arrested and less than five offenders were placed on misdemeanor community supervision for employment harmful to children; therefore, it is assumed the number of persons convicted under this statute would not result in a significant impact on programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

Source Agencies:

LBB Staff: JOB, ADM, GG, LM

**LEGISLATIVE BUDGET BOARD
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CRIMINAL JUSTICE IMPACT STATEMENT

82ND LEGISLATIVE REGULAR SESSION

March 21, 2011

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

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

IN RE: HB290 by Jackson, Jim (Relating to the punishment for the offense of employment harmful to children.), **As Introduced**

The bill would amend the Penal Code to make the offense of employment harmful to children punishable as a felony of the third degree if the defendant has a prior conviction for the offense. The offense is currently punishable as a Class A misdemeanor.

A Class A Misdemeanor is punishable by confinement in a county jail for any term of not more than one year, or, in addition to confinement, a fine not to exceed \$4,000. A felony of the third degree is punishable by imprisonment in the institutional division for any term of not more than 10 years or less than 2 years, or, in addition to confinement, a fine not to exceed \$10,000.

Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or, longer terms of confinement in county jails or prison. When an offense is changed from a misdemeanor to a felony, there is a transfer of the burden of confinement and/or supervision of convicted offenders from the counties to the State. In fiscal year 2010, less than five offenders were arrested and less than five offenders were placed on misdemeanor community supervision for employment harmful to children; therefore, it is assumed the number of persons convicted under this statute would not result in a significant impact on programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

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