

BILL ANALYSIS

H.B. 820
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Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current law makes it an offense to knowingly or intentionally possess visual material that visually depicts a child younger than 18 at the time the image of the child was made engaging in sexual conduct, if the actor knows that the material depicts such a child. However, the law does not currently address a penalty for accessing such material with intent to view, leaving it unclear as to whether such conduct constitutes an offense. H.B. 820 seeks to clarify this issue by expanding the conduct that constitutes the offense to include accessing with intent to view visual material that visually depicts a child known by the actor to be younger than 18 engaging in sexual conduct.

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

H.B. 820 amends the Penal Code to expand the conduct that constitutes the offense of possession or promotion of child pornography to include knowingly or intentionally accessing with intent to view visual material that the actor knows visually depicts a child younger than 18 years of age at the time the image of the child was made who is engaging in sexual conduct. The bill clarifies that the defense to prosecution of the offense for a law enforcement officer or a school administrator is available if the officer or administrator possessed or accessed the visual material in good faith solely as a result of an allegation of a violation of certain statutory provisions, allowed other law enforcement or school administrative personnel to possess or access the material only as appropriate based on the allegation, and took reasonable steps to destroy the material within an appropriate period following the allegation.

EFFECTIVE DATE

September 1, 2013.