

**BILL ANALYSIS**

C.S.H.B. 1123  
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Criminal Jurisprudence  
Committee Report (Substituted)

**BACKGROUND AND PURPOSE**

Interested parties note that the production and distribution of child pornography is a serious problem that victimizes the most vulnerable members of society. There have been many recent cases highlighting the magnitude of this problem and law enforcement professionals have indicated that more severe punishments may act as a deterrent and reduce recidivism. C.S.H.B. 1123 seeks to address these issues.

**CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

**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**

C.S.H.B. 1123 amends the Government Code to establish that an inmate serving a sentence for possession or promotion of child pornography is not eligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals one-half of the inmate's sentence.

C.S.H.B. 1123 amends the Penal Code to increase the penalty for the offense of possession of child pornography from a third degree felony to a second degree felony and the penalty for promotion of child pornography from a second degree felony to a first degree felony.

**EFFECTIVE DATE**

September 1, 2015.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1123 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 3g(a), Article 42.12,	No equivalent provision.

Code of Criminal Procedure, is amended to read as follows:

(a) The provisions of Section 3 of this article do not apply:

(1) to a defendant adjudged guilty of an offense under:

(A) Section 19.02, Penal Code (Murder);

(B) Section 19.03, Penal Code (Capital murder);

(C) Section 21.11(a)(1), Penal Code (Indecency with a child);

(D) Section 20.04, Penal Code (Aggravated kidnapping);

(E) Section 22.021, Penal Code (Aggravated sexual assault);

(F) Section 29.03, Penal Code (Aggravated robbery);

(G) Chapter 481, Health and Safety Code, for which punishment is increased under:

(i) Section 481.140, Health and Safety Code; or

(ii) Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any of those subsections;

(H) Section 22.011, Penal Code (Sexual assault);

(I) Section 22.04(a)(1), Penal Code (Injury to a child, elderly individual, or disabled individual), if the offense is punishable as a felony of the first degree and the victim of the offense is a child;

(J) Section 43.25, Penal Code (Sexual performance by a child);

(K) Section 15.03, Penal Code, if the offense is punishable as a felony of the first degree;

(L) Section 43.05, Penal Code (Compelling prostitution);

(M) Section 20A.02, Penal Code (Trafficking of persons); [Ø]

(N) Section 30.02, Penal Code (Burglary), if the offense is punishable under Subsection (d) of that section and the actor committed the offense with the intent to commit a felony under Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code; or

(O) Section 43.26, Penal Code (Possession or promotion of child pornography); or

(2) to a defendant when it is shown that a deadly weapon as defined in Section 1.07, Penal Code, was used or exhibited during the commission of a felony offense or during immediate flight therefrom, and that the

defendant used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited. On an affirmative finding under this subdivision, the trial court shall enter the finding in the judgment of the court. On an affirmative finding that the deadly weapon was a firearm, the court shall enter that finding in its judgment.

No equivalent provision.

SECTION 2. Sections 43.26(d) and (g), Penal Code, are amended.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. This Act takes effect September 1, 2015.

SECTION 1. Section 508.145, Government Code, is amended by adding Subsection (e-1) to read as follows:

(e-1) An inmate serving a sentence for an offense under Section 43.26, Penal Code, is not eligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals one-half of the inmate's sentence.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.