

## **BILL ANALYSIS**

Senate Research Center  
85R27698 MAW-D

C.S.S.B. 1322  
By: Kolkhorst  
Criminal Justice  
5/3/2017  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, a person charged with possession of child pornography receives the same sentence regardless of the age of the minor. Interested parties contend that child pornography penalties should be aligned with those of aggravated sexual assault of a minor. The penalty for sexual assault of a minor depends on the age of the minor. Sexually assaulting a minor under the age of fourteen elevates the charge from a second degree felony to a first degree felony. A defendant convicted of sexually assaulting a child under six must be sentenced to a minimum term of twenty-five years. S.B. 1322 aligns child pornography with the punishment framework with that of sexual assault of a minor. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 1322 amends current law relating to increasing the punishment for certain conduct constituting the offense of possession or promotion of child pornography.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 43.25(g), Penal Code, to authorize the court or jury, when it becomes necessary for the purposes of this section or Section 43.26 to make a determination regarding the age of a child who participated in sexual conduct, rather than to determine whether a child who participated in sexual conduct was younger than 18 years of age, to make that determination by any of certain provided methods. Makes a nonsubstantive change.

SECTION 2. Amends Sections 43.26(d) and (g), Penal Code, as follows:

(d) Provides that an offense under Subsection (a) is a felony of the third degree, except that the offense is:

(1) a felony of the second degree if:

(A) creates this paragraph from existing text and includes an offense under this section (Possession or Promotion of Child Pornography), rather than that subsection; or

(B) the child depicted in the visual material was younger than 14 years of age at the time the image was made; and

(2) makes a conforming change.

(g) Makes a conforming change.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2017.