

By: Dale, Moody, Fallon

H.B. No. 1810

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the offense of possession or promotion of lewd visual material depicting a child.

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

SECTION 1. Subchapter B, Chapter 43, Penal Code, is amended by adding Section 43.262 to read as follows:

Sec. 43.262. POSSESSION OR PROMOTION OF LEWD VISUAL MATERIAL DEPICTING CHILD. (a) In this section:

(1) "Promote" and "sexual conduct" have the meanings assigned by Section 43.25.

(2) "Visual material" has the meaning assigned by Section 43.26.

(b) A person commits an offense if the person knowingly possesses, accesses with intent to view, or promotes visual material that:

(1) depicts the lewd exhibition of the genitals or pubic area of an unclothed, partially clothed, or clothed child who is younger than 18 years of age at the time the visual material was created;

(2) appeals to the prurient interest in sex; and

(3) has no serious literary, artistic, political, or scientific value.

(c) An offense under this section is a state jail felony, except that the offense is:

1 (1) a felony of the third degree if it is shown on the
2 trial of the offense that the person has been previously convicted
3 one time of an offense under this section or Section 43.26; and

4 (2) a felony of the second degree if it is shown on the
5 trial of the offense that the person has been previously convicted
6 two or more times of an offense under this section or Section 43.26.

7 (d) It is not a defense to prosecution under this section
8 that the depicted child consented to the creation of the visual
9 material.

10 SECTION 2. This Act takes effect September 1, 2017.