

1-1 By: Kolkhorst S.B. No. 1322
1-2 (In the Senate - Filed March 6, 2017; March 14, 2017, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 May 4, 2017, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; May 4, 2017, sent
1-6 to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10			X	
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1322 By: Whitmire

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to increasing the punishment for certain conduct
1-22 constituting the offense of possession or promotion of child
1-23 pornography.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 43.25(g), Penal Code, is amended to read
1-26 as follows:

1-27 (g) When it becomes necessary for the purposes of this
1-28 section or Section 43.26 to make a determination regarding the age
1-29 of ~~[determine whether]~~ a child who participated in sexual conduct
1-30 ~~[was younger than 18 years of age]~~, the court or jury may make that
1-31 ~~[this]~~ determination by any of the following methods:

- 1-32 (1) personal inspection of the child;
1-33 (2) inspection of the photograph or motion picture
1-34 that shows the child engaging in the sexual performance;
1-35 (3) oral testimony by a witness to the sexual
1-36 performance as to the age of the child based on the child's
1-37 appearance at the time;
1-38 (4) expert medical testimony based on the appearance
1-39 of the child engaging in the sexual performance; or
1-40 (5) any other method authorized by law or by the rules
1-41 of evidence at common law.

1-42 SECTION 2. Sections 43.26(d) and (g), Penal Code, are
1-43 amended to read as follows:

1-44 (d) An offense under Subsection (a) is a felony of the third
1-45 degree, except that the offense is:

- 1-46 (1) a felony of the second degree if:
1-47 (A) it is shown on the trial of the offense that
1-48 the person has been previously convicted one time of an offense
1-49 under this section; or
1-50 (B) the child depicted in the visual material was
1-51 younger than 14 years of age at the time the image was made ~~[that~~
1-52 ~~subsection]~~; and

1-53 (2) a felony of the first degree if it is shown on the
1-54 trial of the offense that the person has been previously convicted
1-55 two or more times of an offense under this section ~~[that~~
1-56 ~~subsection]~~.

1-57 (g) An offense under Subsection (e) is a felony of the
1-58 second degree, except that the offense is a felony of the first
1-59 degree if it is shown on the trial of the offense that the person has
1-60 been previously convicted of an offense under this section ~~[that~~

2-1 ~~subsection]~~.

2-2 SECTION 3. The change in law made by this Act applies only
2-3 to an offense committed on or after the effective date of this Act.
2-4 An offense committed before the effective date of this Act is
2-5 governed by the law in effect on the date the offense was committed,
2-6 and the former law is continued in effect for that purpose. For
2-7 purposes of this section, an offense was committed before the
2-8 effective date of this Act if any element of the offense occurred
2-9 before that date.

2-10 SECTION 4. This Act takes effect September 1, 2017.

2-11

* * * * *