87R8810 MEW-F

By:  Schaefer H.B. No. 2377

A BILL TO BE ENTITLED

AN ACT

relating to the punishment for possession of child pornography; increasing criminal penalties.

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

SECTION 1.  Section 43.26, Penal Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d)  An offense under Subsection (a) is:

(1)  a felony of the third degree if the person possesses visual material that contains fewer than 10 visual depictions of a child as described by Subsection (a)(1);

(2)  [~~, except that the offense is:~~

[~~(1)~~] a felony of the second degree if [~~it is shown on the trial of the offense that~~] the person possesses visual material that contains 10 or more visual depictions of a child as described by Subsection (a)(1) but fewer than 200 such depictions [~~has been previously convicted one time of an offense under that subsection~~]; or

(3)  [~~and~~

[~~(2)~~] a felony of the first degree if [~~it is shown on the trial of the offense that~~] the person possesses visual material that contains 200 or more visual depictions of a child as described by Subsection (a)(1) [~~has been previously convicted two or more times of an offense under that subsection~~].

(d-1)  If it is shown on the trial of an offense under Subsection (a) that the defendant has been previously convicted of an offense under that subsection:

(1)  an offense described for purposes of punishment by Subsection (d)(1) or (2) is increased to the next higher category of offense; or

(2)  the minimum term of confinement for an offense described for purposes of punishment by Subsection (d)(3) is increased to 15 years.

SECTION 2.  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 3.  This Act takes effect September 1, 2021.