

BILL ANALYSIS

S.B. 129
By: Springer
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Internet has unfortunately transformed the character and practice of child sexual exploitation for the worse. Individuals who commit child sex crimes use Internet services, social networks, and mobile apps to interact with minors, and each other, in ways they cannot in person and to groom victims by normalizing abusive sexual acts. Some Tor-based sites on the "dark web" focus on child sexual exploitation and support untold numbers of explicit images with disturbingly high numbers of active users. S.B. 129 seeks to address this issue by updating outdated child pornography laws to reflect current technologies and criminal trends so that law enforcement and prosecutors can efficiently protect the most vulnerable in our society--our children.

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

S.B. 129 amends the Code of Criminal Procedure to set the statute of limitations for possession or promotion of child pornography at seven years from the date of the offense's commission. This provision does not apply to an offense if the prosecution of that offense becomes barred by limitation before the bill's effective date.

S.B. 129 amends the Penal Code to revise criminal penalties for the possession or promotion of child pornography as follows:

- makes the penalty a third-degree felony if the person possesses prohibited visual material that contains fewer than 100 visual depictions of a child;
- removes a provision enhancing the penalty to a second-degree felony for a subsequent conviction of the offense and instead enhances the penalty to a second-degree felony if the person possesses prohibited visual material that contains 100 or more, but fewer than 500, visual depictions of a child;
- removes a provision enhancing the penalty to a first-degree felony for two or more convictions of the offense and instead enhances the penalty to a first-degree felony if the person possesses prohibited visual material that contains 500 or more depictions;
- enhances the penalty to a first-degree felony punishable by imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less

than 25 years if it is shown on the trial of the offense that, at the time of the offense, the person was any of the following:

- an employee at a child-care facility, residential child-care facility, or residential treatment facility;
- an employee at a shelter or facility that serves youth and receives state funds; or
- receiving state funds for the care of a child depicted by the visual material;
- increases the penalty from a third-degree felony or a second-degree felony, as applicable, to the next higher category if it is shown on the trial of the offense that the visual material depicted a child younger than 10 years of age at the time the image of the child was made or that the defendant has been previously convicted for the offense; and
- increases the penalty for that conduct to a first-degree felony punishable by a minimum term of confinement for 15 years if such conduct included possessing prohibited visual material that contained 500 or more visual depictions of a child.

The bill applies only to an offense committed on or after the bill's effective date. The bill provides for the continuation of the law in effect before the bill's effective date for purposes of an offense, or any element thereof, that occurred before that date.

EFFECTIVE DATE

September 1, 2023.