

By: Meyer

H.B. No. 2143

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 100 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 100 or more visual depictions of a child as described
by Subsection (a)(1) but fewer than 500 such depictions [has been
previously convicted one time of an offense under that subsection];~~

(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 500 or more visual depictions of a child as described
by Subsection (a)(1); or~~

(4) a felony of the first degree punishable by
imprisonment in the Texas Department of Criminal Justice for life

1 or for any term of not more than 99 years or less than 25 years if it
2 is shown on the trial of the offense that, at the time of the
3 offense, the person was:

4 (A) an employee at a child-care facility or a
5 residential child-care facility, as those terms are defined by
6 Section 42.002, Human Resources Code;

7 (B) an employee at a residential treatment
8 facility established under Section 221.056, Human Resources Code;

9 (C) an employee at a shelter or facility that
10 serves youth and that receives state funds; or

11 (D) receiving state funds for the care of a child
12 depicted by the visual material [~~has been previously convicted two~~
13 ~~or more times of an offense under that subsection].~~

14 (d-1) If it is shown on the trial of an offense under
15 Subsection (a) that the visual material depicted a child younger
16 than 10 years of age at the time the image of the child was made or
17 that the defendant has been previously convicted of an offense
18 under that subsection:

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

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

25 SECTION 2. The change in law made by this Act applies only
26 to an offense committed on or after the effective date of this Act.
27 An offense committed before the effective date of this Act is

1 governed by the law in effect on the date the offense was committed,
2 and the former law is continued in effect for that purpose. For
3 purposes of this section, an offense was committed before the
4 effective date of this Act if any element of the offense occurred
5 before that date.

6 SECTION 3. This Act takes effect September 1, 2023.