

By: Flores, et al.

S.B. No. 20

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the criminal offense of possession or promotion of obscene visual material appearing to depict 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 43.235 to read as follows:

Sec. 43.235. POSSESSION OR PROMOTION OF OBSCENE VISUAL MATERIAL APPEARING TO DEPICT CHILD. (a) In this section:

(1) "Promote" has the meaning 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 obscene visual material containing a depiction that appears to be of a child younger than 18 years of age engaging in activities described by Section 43.21(a)(1)(B), regardless of whether the depiction is an image of an actual child, a cartoon or animation, or an image created using an artificial intelligence application or other computer software.

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

(1) a felony of the third degree if it is shown on the trial of the offense that the person has been previously convicted

1 one time of an offense under this section or Section 43.23, 43.26,
2 43.261, or 43.262; or

3 (2) a felony of the second degree if it is shown on the
4 trial of the offense that the person has been previously convicted
5 two or more times of an offense under this section, Section 43.23,
6 43.26, 43.261, or 43.262, or any combination of those offenses.

7 (d) If conduct constituting an offense under this section
8 also constitutes an offense under another law, the actor may be
9 prosecuted under this section or the other law, but not both.

10 SECTION 2. Section 71.02(a), Penal Code, as amended by
11 Chapters 269 (S.B. 224), 369 (H.B. 1442), 462 (S.B. 1900), 885 (H.B.
12 4635), and 910 (H.B. 6), Acts of the 88th Legislature, Regular
13 Session, 2023, is reenacted and amended to read as follows:

14 (a) A person commits an offense if, with the intent to
15 establish, maintain, or participate in a combination or in the
16 profits of a combination or as a member of a criminal street gang or
17 foreign terrorist organization, the person commits or conspires to
18 commit one or more of the following:

19 (1) murder, capital murder, arson, aggravated
20 robbery, robbery, burglary, theft, aggravated kidnapping,
21 kidnapping, aggravated assault, aggravated sexual assault, sexual
22 assault, continuous sexual abuse of young child or disabled
23 individual, solicitation of a minor, forgery, deadly conduct,
24 assault punishable as a Class A misdemeanor, burglary of a motor
25 vehicle, or unauthorized use of a motor vehicle;

26 (2) any gambling offense punishable as a Class A
27 misdemeanor;

1 (3) promotion of prostitution, aggravated promotion
2 of prostitution, or compelling prostitution;

3 (4) unlawful manufacture, transportation, repair, or
4 sale of firearms or prohibited weapons;

5 (5) unlawful manufacture, delivery, dispensation, or
6 distribution of a controlled substance or dangerous drug, or
7 unlawful possession of a controlled substance or dangerous drug:

8 (A) through forgery, fraud, misrepresentation,
9 or deception; or

10 (B) with the intent to deliver the controlled
11 substance or dangerous drug;

12 (5-a) causing the unlawful delivery, dispensation, or
13 distribution of a controlled substance or dangerous drug in
14 violation of Subtitle B, Title 3, Occupations Code;

15 ~~[(5-b) any unlawful possession with intent to deliver
16 a controlled substance or dangerous drug,~~

17 ~~[(5-b) unlawful possession with intent to deliver a
18 controlled substance listed in Penalty Group 1-B under Section
19 [481.1022](#), Health and Safety Code,]~~

20 (6) any unlawful wholesale promotion or possession of
21 any obscene material or obscene device with the intent to wholesale
22 promote the same;

23 (7) any offense under Subchapter B, Chapter 43,
24 depicting or involving conduct by or directed toward a child
25 younger than 18 years of age;

26 (8) any felony offense under Chapter 32;

27 (9) any offense under Chapter 36;

- 1 (10) any offense under Chapter 34, 35, or 35A;
- 2 (11) any offense under Section 37.11(a);
- 3 (12) any offense under Chapter 20A;
- 4 (13) any offense under Section 37.10;
- 5 (14) any offense under Section 38.06, 38.07, 38.09, or
- 6 38.11;
- 7 (15) any offense under Section 42.10;
- 8 (16) any offense under Section 43.235;
- 9 (17) any offense under Section 46.06(a)(1) or 46.14;
- 10 (18) [~~(17)~~] any offense under Section 20.05, 20.06, or
- 11 20.07;
- 12 (19) [~~(18)~~] any offense under Section 16.02;
- 13 (20) [~~(19)~~] any offense punishable under Section
- 14 42.03(d) or (e);
- 15 (21) [~~(19)~~] an offense under Section 28.03 that is
- 16 punishable under Subsection (b)(4)(E) of that section;
- 17 (22) [~~(20)~~] an offense under Section 31.21 that is
- 18 punishable under Subsection (d) of that section; [~~or~~]
- 19 (23) [~~(20)~~] any offense classified as a felony under
- 20 the Tax Code; or
- 21 (24) [~~(21)~~] any offense under Section 545.420,
- 22 Transportation Code.

23 SECTION 3. The change in law made by this Act applies only

24 to an offense committed on or after the effective date of this Act.

25 An offense committed before the effective date of this Act is

26 governed by the law in effect on the date the offense was committed,

27 and the former law is continued in effect for that purpose. For

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1 purposes of this section, an offense was committed before the
2 effective date of this Act if any element of the offense occurred
3 before that date.

4 SECTION 4. This Act takes effect September 1, 2025.