

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

April 23, 2025

TO: Honorable John T. Smithee, Chair, House Committee on Criminal Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB1621 by Huffman (Relating to prosecution and punishment of certain criminal offenses prohibiting sexually explicit visual material involving depictions of children, computer-generated children, or other persons; creating criminal offenses; increasing criminal penalties.), **As Engrossed**

Expanding the conduct constituting and increasing the penalties for existing offenses may result in additional demands upon state and local correctional resources due to a possible increase in the number of individuals placed under supervision in the community, confined locally, or sentenced to a term of imprisonment, some with longer sentences. The fiscal implications of the bill cannot be determined due to the lack of data to identify cases which would meet the revised offense criteria as proposed by the bill.

The bill would expand the conduct constituting the offenses of possession or promotion of child pornography, electronic transmission of certain visual material depicting a minor, and possession or promotion of lewd visual material depicting a child by invoking a reasonable person standard and making the offenses punishable when the image depicting a child does not to any degree involve imagery of an actual child, and by defining visual material to include a file in any digital format.

The bill would expand conduct constituting the offense of possession or promotion of child pornography by relaxing the mental state required to establish culpability to include when the actor should have known the depicted child was younger than 18, and by removing the requirement, in cases where the offense to any degree involves imagery of an actual child, that the prosecutor prove the identity of the child.

The bill would provide additional criteria for penalty enhancement for the offense of possession or promotion of child pornography by including when the actor has certain prior sex offender related convictions and when the visual material is displayed in a school library.

The bill would make certain criteria for penalty enhancement currently applicable only to the offense of possession or access of child pornography applicable also to the offense of promotion or possession with intent to promote child pornography.

The bill would provide lower penalties for the offense of possession and promotion of child pornography in certain circumstances if the visual material does not to any degree depict an actual child.

The bill would expand the conduct constituting the offense of unlawful disclosure or promotion of intimate visual material by defining visual material to include a file in any digital format.

The bill would remove the affirmative defense to prosecution of the offense of possession or promotion of child pornography, that the actor was not more than two years older than the depicted child, in cases where the imagery to any degree involves imagery of an actual child.

The Office of Court Administration (OCA) and the Comptroller of Public Accounts (CPA) indicate that the fiscal implication of the bill cannot be determined.

Local Government Impact

While the fiscal impact to units of local government cannot be determined, the expansion of qualifying conduct for offenses may result in additional demands on local correctional resources due to the arrest or pretrial detention of more defendants or more defendants receiving community supervision.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts

LBB Staff: JMc, MGol, DGI, AMr