

Chapter 350

H.B. No. 1810

AN ACT

relating to the creation of the offense of possession or promotion of lewd visual material depicting 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 43.262 to read as follows:

Sec. 43.262. POSSESSION OR PROMOTION OF LEWD VISUAL MATERIAL DEPICTING CHILD. (a) In this section:

(1) "Promote" and "sexual conduct" have the meanings 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 visual material that:

(1) depicts the lewd exhibition of the genitals or pubic area of an unclothed, partially clothed, or clothed child who is younger than 18 years of age at the time the visual material was created;

(2) appeals to the prurient interest in sex; and

(3) has no serious literary, artistic, political, or scientific value.

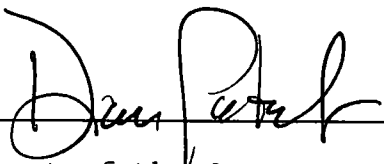
(c) An offense under this section is a state jail felony, except that the offense is:

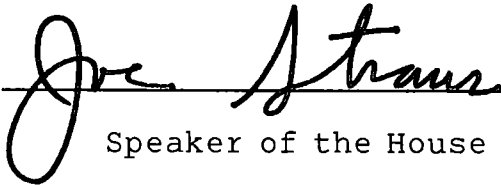
1           (1) a felony of the third degree if it is shown on the  
2 trial of the offense that the person has been previously convicted  
3 one time of an offense under this section or Section 43.26; and

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

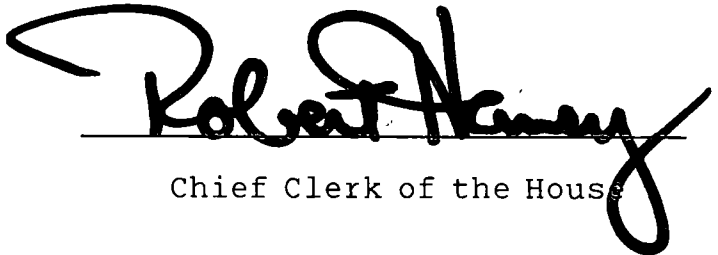
7           (d) It is not a defense to prosecution under this section  
8 that the depicted child consented to the creation of the visual  
9 material.

10           SECTION 2. This Act takes effect September 1, 2017.

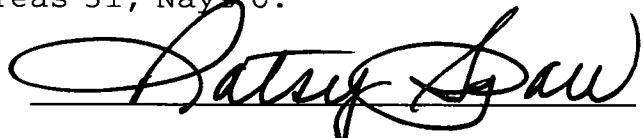
  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 1810 was passed by the House on May 9, 2017, by the following vote: Yeas 147, Nays 0, 1 present, not voting.

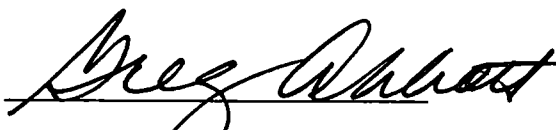
  
\_\_\_\_\_  
Chief Clerk of the House

I certify that H.B. No. 1810 was passed by the Senate on May 19, 2017, by the following vote: Yeas 31, Nays 0.


  
\_\_\_\_\_  
Secretary of the Senate

APPROVED: 5 - 31 - 2017

Date

  
\_\_\_\_\_  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
11:00 AM O'CLOCK

JUN 01 2017  
  
\_\_\_\_\_  
Secretary of State

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 11, 2017**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1810** by Dale (Relating to the creation of the offense of possession or promotion of lewd visual material depicting a child.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Penal Code as it relates to the creation of the offense of possession or promotion of lewd visual material depicting a child. Under the provisions of the bill, engaging in certain behaviors with a child younger than 18 would be punishable at the felony level with punishment increasing in severity based on the number of previous convictions for certain offenses.

The Office of Court Administration and the Texas Department of Criminal Justice do not anticipate a significant fiscal impact. This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on the demand for state correctional resources.

The bill would take effect on September 1, 2017.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 696  
Department of Criminal Justice

**LBB Staff:** UP, LM, KJo

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**April 14, 2017**

**TO:** Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1810** by Dale (relating to the creation of the offense of possession or promotion of lewd visual material depicting a child.), **Committee Report 1st House, Substituted**

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Department of Criminal Justice

**LBB Staff:** UP, LM, KJo

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**April 2, 2017**

**TO:** Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1810** by Dale (Relating to the creation of the offense of possession or promotion of obscene visual material depicting a child.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Penal Code as it relates to the creation of the offense of possession or promotion of obscene visual material depicting a child. Under the provisions of the bill, engaging in certain behaviors with a child younger than 18 would be punishable at the felony level with punishment increasing in severity based on the number of previous convictions for certain offenses.

The Office of Court Administration does not anticipate a significant fiscal impact. This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on the demand for state correctional resources.

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Department of Criminal Justice

**LBB Staff:** UP, KJo, LM

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**85TH LEGISLATIVE REGULAR SESSION**

**May 11, 2017**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1810** by Dale (Relating to the creation of the offense of possession or promotion of lewd visual material depicting a child.), **As Engrossed**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code as it relates to the creation of the offense of possession or promotion of lewd visual material depicting a child. Under the provisions of the bill, engaging in certain behaviors with a child younger than 18 would be punishable at the felony level with punishment increasing in severity based on the number of previous convictions for certain offenses.

A second degree felony is punishable by confinement in prison for a term from 2 to 20 years; a third degree felony for a term from 2 to 10 years; and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony offenses are subject to an optional fine not to exceed \$10,000.

Creating an offense and increasing the punishment level based on certain previous convictions is expected to result in an increase on the demands of the correctional resources of counties or of the State due to a potential increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

**Source Agencies:**

**LBB Staff:** UP, LM

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**85TH LEGISLATIVE REGULAR SESSION**

**April 18, 2017**

**TO:** Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1810** by Dale (relating to the creation of the offense of possession or promotion of lewd visual material depicting a child.), **Committee Report 1st House, Substituted**

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**Source Agencies:**

**LBB Staff:** UP, LM



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**85TH LEGISLATIVE REGULAR SESSION**

**April 2, 2017**

**TO:** Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

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**LBB Staff:** UP, LM