

**SUBJECT:** Higher penalty for repeat offense of employment harmful to children

**COMMITTEE:** Criminal Jurisprudence — favorable, without amendment

**VOTE:** 9 ayes — Gallego, Christian, Fletcher, Hodge, Kent, Miklos, Moody, Pierson, Riddle

0 nays

2 absent — Vaught, Vo

**WITNESSES:** For — Torie Camp, Texas Association Against Sexual Assault; MerryLynn Gerstenschlager, Texas Eagle Forum; (*Registered, but did not testify*: Katrina Daniels, Bexar County District Attorney’s Office; Tom Gaylor, Texas Municipal Police Association; Craig Johnson; Joel Littlefield)

Against — (*Registered, but did not testify*: Matthew Simpson, American Civil Liberties Union of Texas)

On — Kent Richardson, Office of the Attorney General

**BACKGROUND:** Under Penal Code, sec. 43.251, a person who employs, authorizes, or induces a person under 18 years of age to work in a sexually oriented commercial activity, or any place of business that permits, requests, or requires a child to work nude or topless, commits the offense of employment harmful to children. An offense is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

“Sexually-oriented commercial activity” is defined as a massage establishment, nude studio, modeling studio, love parlor, or other similar commercial enterprise the primary business of which is the offering of a service that is intended to provide sexual stimulation or sexual gratification to the customer.

**DIGEST:** HB 124 would make the offense of employment harmful to children a class A misdemeanor unless the defendant had previously been convicted of the offense, in which case the offense would be a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000).

The bill would take effect September 1, 2009, and would apply only to offenses committed on or after this date.

**SUPPORTERS  
SAY:**

By increasing the penalty for repeatedly employing a child in a sexually oriented commercial activity, HB 124 would encourage employers to determine more diligently that they do not employ minors. Unscrupulous employers would be deterred from employing children, and other employers would be more stringent about age verification.

HB 124 would protect children by preventing exposure to sexually oriented employment. Children exposed to sexually explicit media content have negatively shaped sexual values, are prematurely sexualized, are encouraged to experiment with risky behavior, and are at a higher risk for victimization, exploitation, and sexually transmitted diseases. The negative effects of live, sexually explicit content are almost certainly more severe.

**OPPONENTS  
SAY:**

Enhancing the penalty for this offense would not be an effective deterrent. The cost of incarcerating offenders would be an additional financial burden on the state and would divert resources away from other important efforts that could do more to reduce recidivism or promote prevention.

**NOTES:**

The companion bill, SB 710 by Nelson, was reported favorably, as substituted, by the Senate Criminal Justice Committee on April 29 and recommended for the Local and Uncontested Calendar.