

## BILL ANALYSIS

Senate Research Center

H.B. 839  
By: Riddle (Williams)  
Criminal Justice  
5/17/2005  
Engrossed

### AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, upon final conviction for an offense involving obscene material or devices, the court is required to order the obscene material to be destroyed or forfeited to the state. The state routinely obtains felony convictions of individuals who possess child pornography which meet the definition of obscene material. However, it is not printed material, but electronic computer images contained on the hard drive of the suspect's computer.

H.B. 839 amends the Code of Criminal Procedure to require that electronic materials and computers used to possess or promote child pornography be forfeited to the state or destroyed upon final conviction.

### RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subsections (a), (b), (e), (f), and (g), Article 18.18, Code of Criminal Procedure, as follows:

- (a) Requires the court entering a judgment of conviction, following the final conviction of a person for an offense involving child pornography, to order that the child pornography be destroyed or forfeited to the state.
- (b) Makes a conforming change.
- (e) Makes a conforming change.
- (f) Makes a conforming change.
- (g) Defines "obscene material" and "child pornography."

SECTION 2. Amends Article 18.18, Code of Criminal Procedure, by adding Subsection (h), to require that no provider of an electronic communication service or of a remote computing service to the public be held liable for an offense involving obscene material or child pornography under this section on account of any action taken in good faith providing that service.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2005.