

## **BILL ANALYSIS**

Senate Research Center  
85R19114 MEW-F

H.B. 1810  
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Criminal Justice  
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Engrossed

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

Interested parties contend that there is currently no disincentive for some criminals to possess or promote certain images portraying children depicted in a sexually suggestive manner.

Current state law does not contain statutes that criminalize the possession or promotion of child erotica images. Child erotica images portray an unclothed, partially, clothed, or clothed child depicted in a sexually explicit manner indicating the child has a willingness to engage in sexual activity. Investigations of child pornography cases have revealed many child pornography collections also include child erotica images. In some cases, only child erotica images are discovered. In such instances, state charges cannot be pursued.

H.B. 1810 seeks to address this issue by creating the offense of possession or promotion of lewd visual material depicting a child. An offense under this bill is a state jail felony; a state jail felony of the third degree if a person has been convicted of this crime once before; and a state jail felony of the second degree if the person has been convicted of this crime more than two times.

H.B. 1810 amends current law relating to the creation of the offense of possession or promotion of lewd visual material depicting a child.

### **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 Subchapter B, Chapter 43, Penal Code, by adding Section 43.262, as follows:

Sec. 43.262. POSSESSION OR PROMOTION OF LEWD VISUAL MATERIAL DEPICTING CHILD. (a) Defines "promote," "sexual conduct," and "visual material."

(b) Provides that a person commits an offense if the person knowingly possesses, accesses with intent to view, or promotes visual material that 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, appeals to the prurient interest in sex, and has no serious literary, artistic, political, or scientific value.

(c) Provides that an offense under this section is a state jail felony, except that the offense is a felony of the third degree if it is shown on the trial of the offense that the person has been previously convicted one time of an offense under this section or Section 43.26 (Possession or Promotion of Child Pornography) and a felony of the second degree if it is shown on the trial of the offense that the person has been previously convicted two or more times of an offense under this section or Section 43.26.

(d) Provides that it is not a defense to prosecution under this section that the depicted child consented to the creation of the visual material.

SECTION 2. Effective date: September 1, 2017.