

By: Keough

H.B. No. 320

A BILL TO BE ENTITLED

AN ACT

relating to the clarification of the offense of online sexual solicitation of a minor.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 33, Penal Code, Section 33.021 is amended to read as follows:

(a) In this section:

(1) "Minor" means:

(A) an individual who at time of contact with actor is under the age of 17 years.

(B) an individual whom the actor believes to be younger than 17 years of age at time of first contact.

(2) "Sexual contact," "sexual intercourse," and "deviate sexual intercourse" have the meanings assigned by Section 21.01.

(3) "Sexually explicit" means any communication, language, or material, including a photographic or video image, which relates to or describes sexual conduct, as defined by Section 43.25.

(b) A person who is ~~18~~<sup>17</sup> years of age or older at time of first contact commits an offense if, the actor exchanges in sexually explicit communication or distributes sexually explicit material, of either himself or herself, or of another person over the Internet or by electronic mail or a commercial online service

1 or text message intentionally with a minor:

2 (1) communicates in a sexually explicit manner with a  
3 minor; or

4 (2) distributes sexually explicit material to a minor.

5 (c) A person commits an offense if the person, over the  
6 Internet or by electronic mail or text message or a commercial  
7 online service, knowingly solicits a minor to meet another person,  
8 including the actor, with the intent that the minor will engage in  
9 sexual contact, sexual intercourse, or deviate sexual intercourse  
10 with the actor or another person.

11 (d) It is not a defense to prosecution under Subsection (c)  
12 that:

13 (1) the meeting did not occur;

14 (2) the actor did not intend for the meeting to occur;

15 or

16 (3) the actor was engaged in a fantasy at the time of  
17 commission of the offense under Subsection (b) or (c).

18 (e) It is a defense to prosecution under this section that  
19 at the time conduct described by Subsection (b) or (c) was  
20 committed:

21 (1) the actor was married to the minor; or

22 (2) the actor was not more than three years older than  
23 the minor and the minor consented to the conduct.

24 (f) An offense under Subsection (b) is a felony of the third  
25 degree, except that the offense is a felony of the second degree if  
26 the minor is younger than 14 years of age at time of first contact or  
27 is an individual who the actor believes to be younger than 14 years

1 of at the commission of the offense. An offense under Subsection  
2 (c) is a felony of the second degree.

3 (g) If conduct that constitutes an offense under ~~this~~  
4 ~~section~~ Sec. 33.021 also constitutes an offense under any other  
5 law, the actor may be prosecuted under this section, the other law,  
6 or both.

7 SECTION 2. This Act takes effect immediately if it receives  
8 a vote of two-thirds of all the members elected to each house, as  
9 provided by Section 39, Article III, Texas Constitution. If this  
10 Act does not receive the vote necessary for immediate effect, this  
11 Act takes effect September 1, 2015.