

Candidates tough on sex crimes - 4 in governor's race back 25-year minimums for assaults on children

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In appealing for votes, Texas candidates are pushing to get tough on violent sex offenders who prey on children, but some legal experts and defense lawyers say their proposals may be unaffordable or even unconstitutional.

All four contenders for governor favor mandatory lengthy minimum sentences for such offenders. But if the Legislature approved such sentences, it would squeeze an already full state prison system.

The candidates also support or say they are inclined to back the death penalty for repeat violent offenders with child victims, although the modern death penalty traditionally has been reserved for homicides.

While calling for a crackdown, none of the major candidates - Gov. Rick Perry, Carole Keeton Strayhorn, Chris Bell and Kinky Friedman - has outlined exactly how to pay for possible increases in state prison expenses.

They say such crimes are so heinous that the state must take stronger steps, no matter what the cost. Critics say the candidates are simply trying to out-tough each other.

"This is first-rate political pandering," said Keith Hampton, legislative liaison for the Texas Criminal Defense Lawyers Association. "If you care so much about kids, why don't you start putting up the money where it counts instead of passing another penal statute?"

Richard Dieter, executive director of the Washington-based Death Penalty Information Center, a nonprofit organization that analyzes capital punishment, said he wasn't surprised by the election-season push.

"This kind of use of the death penalty as a quick fix for this kind of crime is not unusual," he said.

About 18 states have strengthened laws against child sex offenders after the abduction, rape and murder last year of 9-year-old Jessica Lunsford of Florida. And it came up in the recent Texas governor's debate.

Mrs. Strayhorn, an independent candidate, called a year ago for passage of a "Jessica's Law," which would set hefty penalties for those who sexually assault children. She asked Mr. Perry why he hadn't sought such legislation.

Mr. Perry said he not only expects to seek a law in the next legislative session beginning in January but he also will call for the death penalty for certain repeat violent sex offenders. "One thing people don't get confused about is the fact that Texas is a strong-on-crime state," he said.

A campaign spokesman later said the Republican governor favors mandatory minimum sentences of 25 years to life for first-time violent offenders who sexually assault children younger than 14. And he wants the death penalty for repeat offenders with child victims and would "look favorably" on increased electronic monitoring.

Perry spokesman Robert Black said the governor's interest in the issue is not political pandering but concern about an issue whose time has come. "It's time - the governor believes that Jessica's Law will have the support needed to pass in the Legislature," he said.

Mrs. Strayhorn wants mandatory minimum sentences of 25 years to life for first-time violent offenders who sexually assault children younger than 14 and increased electronic monitoring. She is "open" to execution of repeat violent sex offenders whose victims are younger than 14, a spokesman said.

Democrat Chris Bell said Friday that he also supports such mandatory minimums and increased electronic monitoring and leans towards the death penalty for two-time violent sex offenders whose victims are under age 14 but has some concerns about it.

Independent candidate Kinky Friedman also supports the three initiatives, a campaign spokesman said.

Logistics fuzzy

Perry and Strayhorn aides acknowledge their candidates don't know how such sentences would affect the prison system or be funded.

"The governor's position is the budgeting process the Legislature goes through every two years is a process of priorities," Mr. Black said "It is his hope that they will see the wisdom, as he does, of putting this on a very high priority."

Mrs. Strayhorn has no specific funding plans, but spokesman Mark Sanders said: "It doesn't matter what the cost is. We'll pay for it."

Mr. Bell and Mr. Friedman said they hope to free up prison beds through alternative programs for low-level drug offenders.

Current sentencing law in Texas for sexual assault against children ranges from five years to life, and it gives judges and juries discretion to impose deferred adjudication or probation. More than 10,000 inmates are serving sentences for violent sexual assault against a child. According to a Dallas Morning News analysis of state records, hundreds more have received deferred adjudication or probation.

The cost of incarcerating an inmate in Texas is about \$14,600 a year; a 25-year minimum sentence would cost about \$365,000. Increasing such sentences without reducing the number of inmates might also require new prisons because the system is already full, experts said.

State officials have already indicated a need for more prison funding.

"I don't know if it's possible for us to put all those people in prison," said Dr. Timothy Bray, associate professor of criminology at the University of Texas at Dallas. "This has the potential to do to system capacity what mandatory sentencing on drug laws have done."

Dr. Holly Miller, forensic psychologist at Sam Houston State University's College of Criminal Justice, said mandatory minimum sentences "could be a very significant cost."

When it comes to sentencing, "My view is it's always better to have discretion," Dr. Miller said, adding that she believes putting additional money into treatment is more effective.

Death penalty obstacles

The call for making two-time violent offenders who assault children eligible for the death penalty may be even more problematic.

Louisiana passed such a law in 1995 and a handful of other states did so this year, but the death penalty traditionally has been reserved for homicides. In 1977, the U.S. Supreme Court ruled that execution for the crime of rape is "grossly disproportionate ... and is therefore forbidden."

That case involved an adult victim, and some death penalty proponents hope the court might approve of capital punishment in cases of repeat child rapists.

Texas Attorney General Greg Abbott, a Republican seeking re-election, said he supports the idea. "They would have completely destroyed the lives of more than one child and deserve the death penalty for it."

He added: "I do believe it'll pass constitutional muster, and as attorney general, I'll vigorously defend it."

His opponent, Democrat and lawyer David Van Os, said he has no sympathy for sex offenders who prey on children, but he does not support the death penalty for such crimes. "I don't think it would be constitutional."

Experts say it will be years before a case like that is decided - only one person is on death row in Louisiana for such a crime, and his case is still on appeal. But some observers say the death penalty could hurt prosecutions.

"A lot of these crimes involve family members," said Mr. Dieter of the Death Penalty Information Center. "That makes it even more difficult for the young child or family member to come forward, if the person is going to get the death penalty."

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• Caption: CHART(S): 1. ELECTIONS '06; THE CANDIDATES' OTHER LIVES2. ISSUES WATCH: CRIME AND PUNISHMENT

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