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Cornyn unveils law to ban 'murderabilia'

By Mike Ward

American-Statesman Staff

Spurred in part by new controversy over the online offering of a letter written by convicted Fort Hood mass shooter Nidal Hassan, U.S. Sen. John Cornyn on Friday proposed legislation to block high-profile criminals from selling "murderabilia" for their profit.

Cornyn, who tried unsuccessfully in 2010 to ban the sale of such items as artwork, letters and other memorabilia by serial killers, mass murderers and others convicted of heinous crimes, said the legislation would be the first federal law to prevent criminals from bolstering their notoriety through "murderabilia" sales.

As many as 40 states already have versions of the so-called criminal-act forfeiture law in effect — a trend that began in 1978 with the passage in New York of the so-called Son of Sam law to block serial killer David Berkowitz from making money from book offers to tell his story. A Texas law was enacted in 1979 and repealed in 1993, although prosecutors have since prevented felons from profiteering by attaching stipulations to their sentence regarding restitution.

A federal law passed in 1984 requires forfeiture by criminal defendants of any proceeds they may get from telling their story or talking about their crime. It has recently been used in sentencing so-called "shoe bomber" John Walker Lindh and CIA double agent Harold Nicholson.

The term "murderabilia" was coined by Houston victim advocate Andy Kahan, who supported the Texas law, officials said.

"Every day, the family members of victims are forced to re-live their tragedies as prisoners attempt to make a profit off of the notoriety of their case by selling these items on gruesome web sites," Cornyn said in a statement issued before a late-morning press conference about the legislation.

"Most recently, a letter penned by convicted Fort Hood terrorist Nidal Hasan in prison was posted for sale online. While it has not yet been determined if Hasan deliberately attempted to profit off the sale of his letter, items like these are being sold by convicted serial killers and other criminals on a daily basis."

The announcement came Friday at a press briefing at Austin's Christi Center, a grief support and counseling center for families of murder victims. Victim support groups quickly lined up to support the law, as they did three years ago.

Cornyn said the "Stop the Sale of Murderabilia Act" would cripple the industry by preventing prisoners from mailing or having another person mail any object the prisoner intends to be placed in interstate or foreign commerce. Through several provisions, the bill would remove the financial incentive for prisoners to make murderabilia and stop the trade in new goods, his statement said.

The bill is designed to stop a criminal from being able to mail an item with the intention that someone, somewhere makes a profit — not necessarily just the prisoner himself, Cornyn said. If an inmate sends an autographed picture to a dealer or his family member, with the intention that either of those individuals can make a profit for themselves, the bill would still apply.

Similar laws around the country have been overturned in the courts if they infringed on the First Amendment rights of publishers or other interests. New York's initial Son of Sam law was struck down on that basis, and a similar California law was declared unconstitutional in 2002 on the same grounds.

A revised New York law enacted in 2001 requires that crime victims be notified when a criminal may profit, and gives victims' families time to sue for the proceeds of commercial deals or book sales.

In 1998, the Texas relatives of Pennsylvania murder victim Holly Maddux were awarded \$1 billion over an expected European book deal signed by killer Ira Einhorn, the so-called Unicorn Killer who murdered Maddux in 1981 and then fled to Europe. He was extradited from France and sentenced in 2002 to life without parole.

Lawsuits have also been filed in other states over memorabilia from notorious killers such as Texas serial killer Henry Lee Lucas, Charles Manson, John Wayne Gacy, Ted Bundy and others. Federal officials stirred controversy several years by auctioning personal items belong to Unabomber Ted Kaczynski, although the proceeds were donated to Kaczynski's victims and their families.

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- Posted by Chuckler at 12:14 p.m. Sep. 20, 2013
- Report Abuse

Whatever happened to states' rights? I guess that only applies when you disagree with the legislation, huh Cornyn?



- Posted by oldsquid at 12:32 p.m. Sep. 20, 2013
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Cornyn is desperately trying to stay relevant there in the shadow of his crazy fellow senator.

I thought there was already federal law on this subject. Perhaps that only allows for suits to deprive criminals of the fruits of their crimes, i.e. book royalties, etc.



- Posted by keiffers at 12:33 p.m. Sep. 20, 2013
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nothing wrong with it being sold as long as the profits go to victims funds instead of allowing a criminal or their estate to profit.



- Posted by Claire-Standish at 1:13 p.m. Sep. 20, 2013
- Report Abuse

"The First Amendment's language leaves no room for inference that abridgments of speech and press can be made just because they are slight. That Amendment provides, in simple words, that 'Congress shall make no law . . . abridging the freedom of speech, or of the press.' I read 'no law ... abridging' to mean **no law abridging**."

Smith v. California, 361 U.S. 147, 157 (1959) (Black, J., concurring).



- Posted by 1WiseLatina at 1:13 p.m. Sep. 20, 2013
- Report Abuse

Hasn't Cornyn anything else better to do? I guess we've fixed healthcare, immigration, the middle east, social security, our economy....

Way to tackle the real tough issues Cornyn.



- Posted by oldsquid at 1:46 p.m. Sep. 20, 2013
- Report Abuse

Claire, don't believe any law says that a criminal can't write a book about the family he slaughtered with an axe. He's perfectly free under the 1st Amendment to write any book he wishes. But I believe that are statutes that prevent him from keeping any profits from such a book. He can write anything he wants to.



- Posted by MrAnxiety at 2:06 p.m. Sep. 20, 2013
- Report Abuse

I'm glad Cornyn is spending his time on fluff bills like this - he's doing less damage this way.

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