

By: Toth

H.B. No. 3847

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to defenses to prosecution for certain criminal offenses  
3 involving material or conduct that may be obscene or is otherwise  
4 harmful to children.

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

6 SECTION 1. Section 43.24, Penal Code, is amended by  
7 amending Subsection (c) and adding Subsection (c-2) to read as  
8 follows:

9 (c) It is not a [~~an affirmative~~] defense to prosecution  
10 under this section that the sale, distribution, or exhibition was  
11 by a person having scientific, educational, governmental, or other  
12 similar justification.

13 (c-2) It is a defense to prosecution under Subsection (b)(1)  
14 or (2) that at the time of the offense the actor was a judicial or  
15 law enforcement officer discharging the officer's official duties.

16 SECTION 2. Section 43.25(f), Penal Code, is amended to read  
17 as follows:

18 (f) It is an affirmative defense to a prosecution under this  
19 section that:

20 (1) the defendant was the spouse of the child at the  
21 time of the offense;

22 (2) the conduct was for a bona fide [~~educational,~~  
23 ~~medical, psychological, psychiatric,~~] judicial or [~~7~~] law  
24 enforcement [~~7, or legislative~~] purpose; or

1                   (3) the defendant is not more than two years older than  
2 the child.

3           SECTION 3. The changes in law made by this Act apply only to  
4 an offense committed on or after the effective date of this Act. An  
5 offense committed before the effective date of this Act is governed  
6 by the law in effect on the date the offense was committed, and the  
7 former law is continued in effect for that purpose. For purposes  
8 of this section, an offense was committed before the effective date  
9 of this Act if any element of the offense occurred before that date.

10           SECTION 4. This Act takes effect September 1, 2023.