

Amend **HB 236** by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_. Section 25.08(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a felony of the third degree, except that the offense is a felony of the second degree if the actor commits the offense with intent to commit an offense under Section 43.25.

SECTION \_\_. Sections 43.25(a)(2) and (7), Penal Code, are amended to read as follows:

(2) "Sexual conduct" means sexual contact, actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sado-masochistic abuse, or lewd exhibition of the genitals, the anus, or any portion of the female breast below the top of the areola.

(7) "Deviate sexual intercourse" and "sexual contact" have the meanings assigned ~~[has the meaning defined]~~ by Section 43.01.

SECTION \_\_. Section 43.25(f), Penal Code, is amended to read as follows:

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

(1) ~~[the defendant, in good faith, reasonably believed that the child who engaged in the sexual conduct was 18 years of age or older,~~

~~[(2)]~~ the defendant was the spouse of the child at the time of the offense;

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

(3) ~~[(4)]~~ the defendant is not more than two years older than the child.

SECTION \_\_. Subchapter B, Chapter 43, Penal Code, is amended by adding Section 43.27 to read as follows:

Sec. 43.27. DUTY TO REPORT. (a) For purposes of this section, "visual material" has the meaning assigned by Section

43.26.

(b) A business that develops or processes visual material and determines that the material may be evidence of a criminal offense under this subchapter shall report the existence of the visual material to a local law enforcement agency.

SECTION \_\_. Article 59.01(2), Code of Criminal Procedure, is amended to read as follows:

(2) "Contraband" means property of any nature, including real, personal, tangible, or intangible, that is:

(A) used in the commission of:

(i) any first or second degree felony under the Penal Code;

(ii) any felony under Section 15.031(b), 21.11, 38.04, Subchapter B of Chapter 43, ~~[43.25, or 43.26]~~ or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal Code; or

(iii) any felony under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes);

(B) used or intended to be used in the commission of:

(i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);

(ii) any felony under Chapter 483, Health and Safety Code;

(iii) a felony under Chapter 153, Finance Code;

(iv) any felony under Chapter 34, Penal Code;

(v) a Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code, if the defendant has been previously convicted twice of an offense under that subchapter; or

(vi) any felony under Chapter 152, Finance Code;

(C) the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision or a crime of violence; or

(D) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this

subdivision or a crime of violence.