

1-1 By: Shapiro S.B. No. 1092  
1-2 (In the Senate - Filed March 11, 2003; March 17, 2003, read  
1-3 first time and referred to Committee on Criminal Justice;  
1-4 May 9, 2003, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 4, Nays 0; May 9, 2003, sent  
1-6 to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1092 By: Ellis

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to evidence offered in the prosecution of the offense of  
1-11 child pornography.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 43.26, Penal Code, is amended by adding  
1-14 Subsection (h) to read as follows:

1-15 (h) In a prosecution under this section, the defendant may  
1-16 offer evidence to establish that the material does not depict a  
1-17 person or depicts a person who was 18 years of age or older at the  
1-18 time the image of the person was made only if the attorney  
1-19 representing the defendant provides notice of that intention to the  
1-20 court and the attorney representing the state not later than the  
1-21 10th day before the date on which the trial on the merits commences.

1-22 SECTION 2. (a) The change in law made by this Act applies  
1-23 only to the prosecution of an offense committed on or after the  
1-24 effective date of this Act. For purposes of this section, an  
1-25 offense is committed before the effective date of this Act if any  
1-26 element of the offense occurs before the effective date.

1-27 (b) The prosecution of an offense committed before the  
1-28 effective date of this Act is covered by the law in effect when the  
1-29 offense was committed, and the former law is continued in effect for  
1-30 that purpose.

1-31 SECTION 3. This Act takes effect September 1, 2003.

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