

By: Taylor, Riddle, Carter, Herrero, Burnam,  
et al.

H.B. No. 820

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the prosecution of the possession or promotion of child  
3 pornography.

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

5 SECTION 1. Sections 43.26(a) and (h), Penal Code, are  
6 amended to read as follows:

7 (a) A person commits an offense if:

8 (1) the person knowingly or intentionally possesses,  
9 or knowingly or intentionally accesses with intent to view, visual  
10 material that visually depicts a child younger than 18 years of age  
11 at the time the image of the child was made who is engaging in sexual  
12 conduct; and

13 (2) the person knows that the material depicts the  
14 child as described by Subdivision (1).

15 (h) It is a defense to prosecution under Subsection (a) or  
16 (e) that the actor is a law enforcement officer or a school  
17 administrator who:

18 (1) possessed or accessed the visual material in good  
19 faith solely as a result of an allegation of a violation of Section  
20 43.261;

21 (2) allowed other law enforcement or school  
22 administrative personnel to possess or access the material only as  
23 appropriate based on the allegation described by Subdivision (1);  
24 and

1           (3) took reasonable steps to destroy the material  
2 within an appropriate period following the allegation described by  
3 Subdivision (1).

4           SECTION 2. The change in law made by this Act applies only  
5 to an offense committed on or after the effective date of this Act.  
6 An offense committed before the effective date of this Act is  
7 governed by the law in effect on the date the offense was committed,  
8 and the former law is continued in effect for that purpose. For  
9 purposes of this section, an offense was committed before the  
10 effective date of this Act if any element of the offense occurred  
11 before that date.

12           SECTION 3. This Act takes effect September 1, 2013.