

By: Hall

S.B. No. 977

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

SECTION 2. 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 was the spouse of the child at the time of the offense;

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

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

3 SECTION 3. The change in law made by this Act applies 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 of
8 this section, an offense was committed before the effective date of
9 this Act if any element of the offense occurred before the date.

10 SECTION 4. This Act takes effect immediately if it receives
11 a vote of two-thirds of all members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2021.