A BILL TO BE ENTITLED

AN ACT

relating to certain affirmative defenses to prosecution for the
criminal offenses of sexual performance by a child and possession
or promotion of child pornography.

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

SECTION 1. 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

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

SECTION 2. Section 43.26(c), Penal Code, is amended to read
as follows:

(c) It is an affirmative defense that:

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

(2) the conduct was for a bona fide judicial or law
SECTION 3. The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

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