

By: Hall

S.B. No. 395

A BILL TO BE ENTITLED

AN ACT

relating to defenses to prosecution for certain criminal 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, educational, 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 judicial or 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 or ~~[7]~~ 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 changes in law made by this Act apply 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
8 of this section, an offense was committed before the effective date
9 of this Act if any element of the offense occurred before that date.

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