

By: Middleton

S.B. No. 437

A BILL TO BE ENTITLED

1 AN ACT
2 relating to affirmative defenses to prosecution for certain
3 offenses involving material or conduct that is obscene or otherwise
4 harmful to children.

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

6 SECTION 1. Section 43.24(c), Penal Code, is amended to read
7 as follows:

8 (c) It is an affirmative defense to prosecution under this
9 section that the sale, distribution, or exhibition was by a person
10 having a bona fide judicial, law enforcement, or legislative
11 ~~[scientific, educational, governmental, or other similar]~~
12 justification.

13 SECTION 2. Section 43.25(f), Penal Code, is amended to read
14 as follows:

15 (f) It is an affirmative defense to a prosecution under this
16 section that:

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

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

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

24 SECTION 3. The changes in law made by this Act apply only to

1 an offense committed on or after the effective date of this Act. An
2 offense committed before the effective date of this Act is governed
3 by the law in effect on the date the offense was committed, and the
4 former law is continued in effect for that purpose. For purposes of
5 this section, an offense was committed before the effective date of
6 this Act if any element of the offense occurred before that date.

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