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| BILL ANALYSIS |

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| S.B. 412 |
| By: Middleton |
| State Affairs |
| Committee Report (Unamended) |

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| **BACKGROUND AND PURPOSE** The bill sponsor has informed the committee that parents in his district, and around the state, have reported instances in which obscene instructional material has been presented in Texas classrooms, with parents providing examples of school districts displaying sexually explicit and age-inappropriate content to Texas students. The bill sponsor has further informed the committee that the current affirmative defenses to prosecution for the sale, distribution, or display of harmful material to a minor and for sexual performance by a child are overly broad in the justifications that are covered by the affirmative defenses, with further refinement needed to narrow the scope of what conduct is justifiable. S.B. 412 seeks to address this issue and protect children from accessing or being exposed to explicit content by revising the affirmative defenses to prosecution for these offenses. |
| **CRIMINAL JUSTICE IMPACT**It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision. |
| **RULEMAKING AUTHORITY** It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution. |
| **ANALYSIS** S.B. 412 repeals the Penal Code provision that establishes as an affirmative defense to prosecution for the sale, distribution, or display of harmful material to a minor that the sale, distribution, or exhibition was by a person having scientific, educational, governmental, or other similar justification and amends the Penal Code to establish as an affirmative defense to prosecution for the following specific conduct constituting that offense instead that the actor was a judicial or law enforcement officer discharging the officer's official duties at the time of the offense:* selling, distributing, exhibiting, or possessing for sale, distribution, or exhibition to a minor harmful material knowing the person is a minor and knowing that the material is harmful; or
* displaying harmful material and being reckless about whether a minor is present who will be offended or alarmed by the display, and while knowing that the material is harmful.

S.B. 412 replaces the affirmative defense to prosecution for the offense of sexual performance by a child that the conduct constituting the offense was for a bona fide educational, medical, psychological, psychiatric, judicial, law enforcement, legislative purpose with an affirmative defense to prosecution for that offense that the actor was a judicial or law enforcement officer discharging the officer's official duties at the time of the offense. S.B. 412 applies only to an offense committed on or after the bill's effective date. An offense committed before the bill's effective date 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 these purposes, an offense was committed before the bill's effective date if any element of the offense occurred before that date. S.B. 412 repeals Section 43.24(c), Penal Code. |
| **EFFECTIVE DATE** September 1, 2025. |
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