

BILL ANALYSIS

Senate Research Center
82R5414 SJM-D

S.B. 757
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Criminal Justice
3/31/2011
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 43.24 (Sale, Distribution, or Display of Harmful Material to Minor), Penal Code, provides penalties for the sale, distribution, or display of pornographic material, defined as "harmful material," to a minor. Current law contains a defense to prosecution if the sale, distribution, or exhibition was to a minor who was accompanied by a consenting parent, guardian, or spouse. Because of this defense, situations have arisen in which prosecutors have had difficulty bringing charges against parents who displayed pornographic material to their own children.

S.B. 757 removes the defense to prosecution for a consenting parent or guardian.

As proposed, S.B. 757 amends current law relating to certain defenses to prosecution for the offense of sale, distribution, or display of harmful material to a minor.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 43.24, Penal Code, by amending Subsection (c) and adding Subsection (c-1), as follows:

(c) Provides that it is an affirmative defense, rather than a defense, to prosecution under this section that the sale, distribution, or exhibition of material harmful to a minor was by a person having scientific, educational, governmental, or other similar justification. Deletes existing text providing that it is a defense to prosecution under this section that the sale, distribution, or exhibition was to a minor who was accompanied by a consenting parent, guardian, or spouse. Makes nonsubstantive changes.

(c-1) Provides that it is a defense to prosecution under this section that the actor was the spouse of the minor at the time of the offense.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2011.