

BILL ANALYSIS

Senate Research Center
79R7141 RMB-D

S.B. 893
By: Carona
Criminal Justice
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current, Texas law does not contain a legal defense to the offense of indecency with a child. Since Section 21.11, Penal Code, is a strict liability offense, there are occasionally fact specific cases where circumstances and facts necessitate such a defense.

S.B. 893 reinstates a limited affirmative defense to the offense under Section 21.11, Penal Code relating to indecency with a child. The limited mistake of fact defense provides that it is a defense to the prosecution if the victim was the opposite sex of the actor; the victim was 14 years of age or older and the actor was younger than 20 years of age; and the actor through mistake formed a reasonable belief that the victim was not more than three years younger than the actor.

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 21.11, Penal Code, by adding Subsection (b-1), as follows:

(b-1) Provides that it is a defense to prosecution under this section (indecency with a child) that the victim was the opposite sex of the actor, the victim was 14 years of age or older and the actor was younger than 20 years of age at the time of the offense, and the actor through mistake formed a reasonable belief that the victim was not more than three years younger than the actor.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.