

By: Alvarado

S.B. No. 2169

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the prosecution of the offense of sexual assault.

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

4 SECTION 1. Section 22.011(b), Penal Code, is amended to
5 read as follows:

6 (b) A sexual assault under Subsection (a)(1) is without the
7 consent of the other person if:

8 (1) the actor compels the other person to submit or
9 participate by the use of physical force, violence, or coercion;

10 (2) the actor compels the other person to submit or
11 participate by threatening to use force or violence against the
12 other person or to cause harm to the other person, and the other
13 person believes that the actor has the present ability to execute
14 the threat;

15 (3) ~~[the other person has not consented and]~~ the actor
16 knows or reasonably should know the other person is:

17 (A) unconscious; ~~[or]~~

18 (B) physically unable to resist;

19 (C) incapable either of appraising the nature of
20 the act or of resisting the act; or

21 (D) unaware that the sexual assault is occurring;

22 (4) the actor knows or reasonably should know that the
23 other person has withdrawn consent to the act and the actor persists
24 after consent is withdrawn ~~[the actor knows that as a result of~~

1 ~~mental disease or defect the other person is at the time of the~~
2 ~~sexual assault incapable either of appraising the nature of the act~~
3 ~~or of resisting it];~~

4 (5) the actor knows or reasonably should know the
5 other person is intoxicated by any substance such that the other
6 person is incapable of consenting to the act [~~the other person has~~
7 ~~not consented and the actor knows the other person is unaware that~~
8 ~~the sexual assault is occurring)];~~

9 (6) [~~the actor has intentionally impaired the other~~
10 ~~person's power to appraise or control the other person's conduct by~~
11 ~~administering any substance without the other person's knowledge;~~

12 [~~(7)~~] the actor compels the other person to submit or
13 participate by threatening to use force or violence against any
14 person, and the other person believes that the actor has the ability
15 to execute the threat;

16 (7) [~~(8)~~] the actor is a public servant who coerces
17 the other person to submit or participate;

18 (8) [~~(9)~~] the actor is a mental health services
19 provider or a health care services provider who causes the other
20 person, who is a patient or former patient of the actor, to submit
21 or participate by exploiting the other person's emotional
22 dependency on the actor;

23 (9) [~~(10)~~] the actor is a clergyman who causes the
24 other person to submit or participate by exploiting the other
25 person's emotional dependency on the clergyman in the clergyman's
26 professional character as spiritual adviser;

27 (10) [~~(11)~~] the actor is an employee of a facility

1 where the other person is a resident, unless the employee and
2 resident are formally or informally married to each other under
3 Chapter 2, Family Code;

4 (11) [~~(12)~~] the actor is a health care services
5 provider who, in the course of performing an assisted reproduction
6 procedure on the other person, uses human reproductive material
7 from a donor knowing that the other person has not expressly
8 consented to the use of material from that donor;

9 (12) [~~(13)~~] the actor is a coach or tutor who causes
10 the other person to submit or participate by using the actor's power
11 or influence to exploit the other person's dependency on the actor;
12 or

13 (13) [~~(14)~~] the actor is a caregiver hired to assist
14 the other person with activities of daily life and causes the other
15 person to submit or participate by exploiting the other person's
16 dependency on the actor.

17 SECTION 2. Section 22.011(c), Penal Code, is amended by
18 adding Subdivision (1-a) to read as follows:

19 (1-a) "Consent" has the meaning assigned by Section
20 1.07.

21 SECTION 3. Section 154.051(d-1), Occupations Code, is
22 amended to read as follows:

23 (d-1) The board may not consider or act on a complaint
24 involving an alleged violation of Section 22.011(b)(11)
25 [~~22.011(b)(12)~~], Penal Code, that occurred more than seven years
26 before the date on which the complaint is received by the board or
27 more than 2 years from the date the complainant knew or should have

1 known of the facts giving rise to the complaint, whichever is later.

2 SECTION 4. The change in law made by this Act applies only
3 to an offense committed on or after the effective date of this Act.
4 An offense committed before the effective date of this Act is
5 governed by the law in effect on the date the offense was committed,
6 and the former law is continued in effect for that purpose. For
7 purposes of this section, an offense was committed before the
8 effective date of this Act if any element of the offense occurred
9 before that date.

10 SECTION 5. This Act takes effect September 1, 2023.