

BILL ANALYSIS

H.B. 2278
By: Morrison
Economic Development
Committee Report (Unamended)

BACKGROUND AND PURPOSE

HB 706, of the 77th Legislature amended the existing “Safe Haven” law that governs the voluntary abandonment of an infant to an emergency care provider. Among other changes, HB 706 amended Section 22.041(h) of the Penal Code to provide that voluntarily delivering a child to an approved provider is an exception to prosecution for abandoning or endangering a child, instead of an affirmative defense to prosecution, as it had been.

However, the changes made by HB 706 applied not only to the offense of abandoning a child under Section 22.041(b), but also to an offense of endangering a child under Section 22.041(c), which includes all other acts or omissions that place a child younger than 15 years of age in imminent danger of death, bodily injury, or physical or mental impairment. The result is that the prosecution must now allege and disprove the safe haven exception in all prosecutions for abandoning or endangering a child, even those to which the safe haven law does not apply. HB 2278 amend the Penal Code to clarify that the safe haven exception to abandoning a child is limited to cases of abandonment under Section 22.041(b).

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

HB 2278 amends the Section 22.041(h) of the Penal Code to make it an exception to the application of Subsection (b) that the actor voluntarily delivered the child to a designated emergency infant care provider under Section 262.302, Family Code.

EFFECTIVE DATE

September 1, 2003.