

BILL ANALYSIS

Senate Research Center

S.B. 827
By: Whitmire
Criminal Justice
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Enrolled

DIGEST AND PURPOSE

Under current law, it is not a criminal offense for a person to abandon or endanger an elderly individual or a disabled individual, nor is it a criminal offense if a person who has custody, care or control of a child, an elderly individual, or disabled individual fails to provide adequate food, medical care, or shelter to that individual. S.B. 827 amends the Penal Code to make it a criminal offense if a person abandons or endangers a child, an elderly individual, or a disabled individual.

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 22.041, Penal Code, as follows:

Sec. 22.041. New heading: ABANDONING OR ENDANGERING A CHILD, ELDERLY INDIVIDUAL, OR DISABLED INDIVIDUAL. (a) Redefines “abandon” and defines “elderly individual” and “disabled individual.”

(b) Provides that a person commits an offense if, having custody, care or control of child younger than 15 years, an elderly individual or a disabled individual, the person intentionally abandons the child, elderly individual, or disabled individual in any place under circumstances that expose the child, elderly individual, or disabled individual to an unreasonable risk of harm.

(c) Provides that a person commits an offense if the person intentionally, knowingly, recklessly, or with criminal negligence, by act or omission, engages in conduct that places a child younger than 15 years, an elderly individual, or a disabled individual in imminent danger of death, bodily injury, or physical or mental impairment. Makes a nonsubstantive change.

(c-1) Provides that a person commits an offense if, having custody, care, or control of a child younger than 15 years, an elderly individual, or a disabled individual, the person intentionally or knowingly fails to provide food, medical care, or shelter for the child, elderly individual, or disabled individual.

(d) Makes conforming changes.

(e) Makes conforming changes.

(f) Makes no change to this section.

(f-1) Provides that an offense under Subsection (c-1) is a second degree felony.

(g) Makes no changes to this section.

(h) Provides that it is an exception to the application of Subsection (b), rather than this section, that the actor voluntarily delivered the child to a designated emergency infant care provider under Section 262.302 (Child's Attendance at Hearing), Family Code.

(i) Provides that it is defense to prosecution under Subsection (c) or (c-1) that the actor voluntarily delivered the child to a designated emergency infant care provider under Section 262.302, Family Code.

(j) Provides that it is a defense to prosecution under Subsection (c-1) that the person is a health care facility licensed under a law other than Chapter 241 (Convalescent and Nursing Homes and Related Institutions), Health and Safety Code, or a licensed health care professional providing medical treatment at, or is an employee of, a health care facility licensed under a law other than Chapter 241, Health and Safety Code, and that the person's conduct is the result of certain actions.

(k) Specifies that it is an affirmative defense to prosecution under Subsection (c-1) for a failure to provide medical care that the actor's conduct was based on treatment in accordance with the tenets and practices of a recognized religious method of healing that has a generally accepted record of efficacy.

SECTION 2. Effective date: September 1, 2003.

Makes application of this Act prospective.