

## **BILL ANALYSIS**

C.S.S.B. 827  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, it is not a criminal offense if a person abandons or endangers an elderly or disabled individual, nor is it an offense if a person who has custody, care, or control of a child, elderly individual, or disabled individual fails to provide adequate food, medical care, or shelter to that individual. C.S.S.B. 827 makes these actions criminal offenses.

### **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**

C.S.S.B. 827 amends the Penal Code to make it an offense to abandon or endanger an elderly or disabled individual. Such an offense is a state jail felony if the person intends to return, a third degree felony if there is no such intent, or a second degree felony if the abandonment places the person in imminent danger of death, bodily injury, or physical or mental impairment.

Furthermore, it is a second degree felony if a person intentionally fails to provide food, medical care, or shelter for a child under 15 years of age, an elderly individual, or a disabled individual. The bill creates a defense to prosecution for this provision if the actor delivered the child to a designated emergency infant care provider. In addition, it is also a defense to prosecution of this provision if the person is a facility licensed under law other than the Texas Hospital Licensing Law or an employee of the same and the conduct is permitted in accordance with relevant state law.

### **EFFECTIVE DATE**

September 1, 2003.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute differs from the engrossed bill by creating a defense to prosecution for health care facilities and their employees licensed under law other than the Texas Hospital Licensing Law, provided that the conduct is permitted in accordance with relevant state law. The substitute also removes language from the engrossed bill which made engaging in conduct, with criminal negligence, that places a child younger than 15 years of age, an elderly individual, or a disabled individual in imminent danger of death, bodily injury, or physical or mental impairment, a criminal offense. This change leaves the threshold for committing an offense at engaging in such conduct intentionally, knowingly, or recklessly.

In addition, the substitute removes language proposed in the engrossed bill which created an affirmative defense to prosecution for failing to act or abandoning individuals, provided that the act or omission was based on treatment in accordance with a recognized method of religious healing that has a generally accepted record of efficacy.

