

By: Whitmire

S.B. No. 825

A BILL TO BE ENTITLED

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AN ACT

relating to the prosecution of the offense of sexual assault  
committed against residents of certain facilities.

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

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

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

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

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

(3) the other person has not consented and the actor  
knows the other person is unconscious or physically unable to  
resist;

(4) the actor knows that as a result of mental disease  
or defect the other person is at the time of the sexual assault  
incapable either of appraising the nature of the act or of resisting  
it;

(5) the other person has not consented and the actor  
knows the other person is unaware that the sexual assault is  
occurring;

1           (6) the actor has intentionally impaired the other  
2 person's power to appraise or control the other person's conduct by  
3 administering any substance without the other person's knowledge;

4           (7) the actor compels the other person to submit or  
5 participate by threatening to use force or violence against any  
6 person, and the other person believes that the actor has the ability  
7 to execute the threat;

8           (8) the actor is a public servant who coerces the other  
9 person to submit or participate;

10          (9) the actor is a mental health services provider or a  
11 health care services provider who causes the other person, who is a  
12 patient or former patient of the actor, to submit or participate by  
13 exploiting the other person's emotional dependency on the actor;  
14 [~~or~~]

15          (10) the actor is a clergyman who causes the other  
16 person to submit or participate by exploiting the other person's  
17 emotional dependency on the clergyman in the clergyman's  
18 professional character as spiritual adviser; or

19          (11) the actor is an employee of a facility where the  
20 other person is a resident, unless the employee and resident are  
21 formally or informally married to each other under Chapter 2,  
22 Family Code.

23          SECTION 2. Subsection (c), Section 22.011, Penal Code, is  
24 amended by adding Subdivision (5) to read as follows:

25          (5) "Employee of a facility" means a person who is an  
26 employee of a facility defined by Section 250.001, Health and  
27 Safety Code, or any other person who provides services for a

1 facility for compensation, including a contract laborer.

2 SECTION 3. (a) This Act takes effect September 1, 2003.

3 (b) The change in law made by this Act applies only to an  
4 offense committed on or after the effective date of this Act. An  
5 offense committed before the effective date of this Act is covered  
6 by the law in effect when the offense was committed, and the former  
7 law is continued in effect for that purpose. For purposes of this  
8 subsection, an offense was committed before the effective date of  
9 this Act if any element of the offense was committed before that  
10 date.