

1-1 By: Whitmire S.B. No. 825  
1-2 (In the Senate - Filed March 3, 2003; March 10, 2003, read  
1-3 first time and referred to Committee on Criminal Justice;  
1-4 March 31, 2003, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 4, Nays 0; March 31, 2003,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 825 By: Whitmire

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the prosecution of the offense of sexual assault  
1-11 committed against residents of certain facilities.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (b), Section 22.011, Penal Code, is  
1-14 amended to read as follows:

1-15 (b) A sexual assault under Subsection (a)(1) is without the  
1-16 consent of the other person if:

1-17 (1) the actor compels the other person to submit or  
1-18 participate by the use of physical force or violence;

1-19 (2) the actor compels the other person to submit or  
1-20 participate by threatening to use force or violence against the  
1-21 other person, and the other person believes that the actor has the  
1-22 present ability to execute the threat;

1-23 (3) the other person has not consented and the actor  
1-24 knows the other person is unconscious or physically unable to  
1-25 resist;

1-26 (4) the actor knows that as a result of mental disease  
1-27 or defect the other person is at the time of the sexual assault  
1-28 incapable either of appraising the nature of the act or of resisting  
1-29 it;

1-30 (5) the other person has not consented and the actor  
1-31 knows the other person is unaware that the sexual assault is  
1-32 occurring;

1-33 (6) the actor has intentionally impaired the other  
1-34 person's power to appraise or control the other person's conduct by  
1-35 administering any substance without the other person's knowledge;

1-36 (7) the actor compels the other person to submit or  
1-37 participate by threatening to use force or violence against any  
1-38 person, and the other person believes that the actor has the ability  
1-39 to execute the threat;

1-40 (8) the actor is a public servant who coerces the other  
1-41 person to submit or participate;

1-42 (9) the actor is a mental health services provider or a  
1-43 health care services provider who causes the other person, who is a  
1-44 patient or former patient of the actor, to submit or participate by  
1-45 exploiting the other person's emotional dependency on the actor;  
1-46 [~~or~~]

1-47 (10) the actor is a clergyman who causes the other  
1-48 person to submit or participate by exploiting the other person's  
1-49 emotional dependency on the clergyman in the clergyman's  
1-50 professional character as spiritual adviser; or

1-51 (11) the actor is an employee of a facility where the  
1-52 other person is a resident, unless the employee and resident are  
1-53 formally or informally married to each other under Chapter 2,  
1-54 Family Code.

1-55 SECTION 2. Subsection (c), Section 22.011, Penal Code, is  
1-56 amended by adding Subdivision (5) to read as follows:

1-57 (5) "Employee of a facility" means a person who is an  
1-58 employee of a facility defined by Section 250.001, Health and  
1-59 Safety Code, or any other person who provides services for a  
1-60 facility for compensation, including a contract laborer.

1-61 SECTION 3. (a) This Act takes effect September 1, 2003.

1-62 (b) The change in law made by this Act applies only to an  
1-63 offense committed on or after the effective date of this Act. An

2-1 offense committed before the effective date of this Act is covered  
2-2 by the law in effect when the offense was committed, and the former  
2-3 law is continued in effect for that purpose. For purposes of this  
2-4 subsection, an offense was committed before the effective date of  
2-5 this Act if any element of the offense was committed before that  
2-6 date.

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