

By: Carona

S.B. No. 688

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of the offenses of sexual assault and aggravated sexual assault.

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

SECTION 1. Section 22.011, Penal Code, is amended by adding Subsections (e-1) and (g) to read as follows:

(e-1) It is an affirmative defense to prosecution under Subsection (a)(2) that:

(1) the actor reasonably believed that the victim was 17 years of age or older and:

(A) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or

(B) was not a person who under Chapter 62, Code of Criminal Procedure, had a reportable conviction or adjudication for an offense under this section or Section 22.021; and

(2) the victim:

(A) was 13 years of age or older; and

(B) provided the actor with tangible, false evidence that:

(i) was intentionally designed to mislead the actor as to the victim's age; and

(ii) when viewed objectively, can reasonably be thought to be authentic identification of the victim.

(g) Subsection (e-1) does not invalidate or otherwise

1 diminish Rule 412, Texas Rules of Evidence.

2 SECTION 2. Section 22.021, Penal Code, is amended by adding
3 Subsections (d-1) and (f) to read as follows:

4 (d-1) It is an affirmative defense to prosecution under
5 Subsection (a)(2)(B) that:

6 (1) the actor reasonably believed that the victim was
7 17 years of age or older and:

8 (A) was not required under Chapter 62, Code of
9 Criminal Procedure, to register for life as a sex offender; or

10 (B) was not a person who under Chapter 62, Code of
11 Criminal Procedure, had a reportable conviction or adjudication for
12 an offense under this section or Section 22.011; and

13 (2) the victim:

14 (A) was 13 years of age or older; and

15 (B) provided the actor with tangible, false
16 evidence that:

17 (i) was intentionally designed to mislead
18 the actor as to the victim's age; and

19 (ii) when viewed objectively, can
20 reasonably be thought to be authentic identification of the victim.

21 (f) Subsection (d-1) does not invalidate or otherwise
22 diminish Rule 412, Texas Rules of Evidence.

23 SECTION 3. The change in law made by this Act applies only
24 to an offense committed on or after September 1, 2005. An offense
25 committed before September 1, 2005, is covered by the law in effect
26 when the offense was committed, and the former law is continued in
27 effect for that purpose. For the purposes of this section, an

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1 offense was committed before September 1, 2005, if any element of
2 the offense was committed before that date.

3 SECTION 4. This Act takes effect September 1, 2005.