

By: Jackson

H.B. No. 1745

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) in the presence of the actor, displayed tangible, false evidence that:

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

(ii) when considered objectively by the court with other circumstances, can reasonably be thought to be accurate identification of the victim.

1 (g) Subsection (e-1) does not invalidate or otherwise
2 diminish Rule 412, Texas Rules of Evidence.

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

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

7 (1) the actor reasonably believed that the victim was
8 17 years of age or older and:

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

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

14 (2) the victim:

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

16 (B) in the presence of the actor, displayed
17 tangible, false evidence that:

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

20 (ii) when considered objectively by the
21 court with other circumstances, can reasonably be thought to be
22 accurate identification of the victim.

23 (g) Subsection (d-1) does not invalidate or otherwise
24 diminish Rule 412, Texas Rules of Evidence.

25 SECTION 3. The change in law made by this Act applies only
26 to an offense committed on or after the effective date of this Act.
27 An offense committed before the effective date of this Act is

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

6 SECTION 4. This Act takes effect September 1, 2009.