

BILL ANALYSIS

Senate Research Center

H.B. 1286
By: Simmons et al. (Lucio)
Criminal Justice
5/11/2015
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

For purposes of the offense of injury to a child, elderly individual, or disabled individual, a "disabled individual" is currently defined as a person older than 14 years of age who by reason of age or physical or mental disease, defect, or injury is substantially unable to protect himself from harm or to provide food, shelter, or medical care for himself. Interested parties contend that this definition should be expanded to cover other disabled individuals who may not meet that description. H.B. 1286 seeks to address this issue.

H.B. 1286 amends the Penal Code to include in the definition of "disabled individual," for purposes of statutory provisions relating to an offense for injury to a child, elderly individual, or disabled individual, a person with autism spectrum disorder, a developmental disability, an intellectual disability, a severe emotional disturbance, a traumatic brain injury, or any combination thereof.

H.B. 1286 removes a provision limiting the definition of "disabled individual" for those purposes to a person older than 14 years of age. The bill clarifies, for purposes of the affirmative defense to prosecution for such an offense where the actor was not more than three years older than the victim who was a child at the time of the offense, that the child was nondisabled or disabled at the time of the offense.

H.B. 1286 redefines "disabled individual" as it relates to an offense for injury and allows more prosecution of those who harm these individuals.

H.B. 1286 amends current law relating to the prosecution and punishment of the offense of injury to a child, elderly individual, or disabled individual.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 22.04(c)(3), Penal Code, to redefine "disabled individual."

SECTION 2. Amends Section 22.04, Penal Code, by amending Subsection (l) and adding Subsection (m), as follows:

(l) Provides that it is an affirmative defense to prosecution under this section that the victim was a nondisabled or disabled child at the time of the offense.

(m) Provides that it is an affirmative defense to prosecution under Subsections (a)(1), (2), and (3) for injury to a disabled individual that the person did not know and could not reasonably have known that the individual was a disabled individual, as defined by Subsection (c), at the time of the offense.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2015.