

By: Simmons, Moody, Dale, Villalba

H.B. No. 1286

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution and punishment of the offense of injury to a child, elderly individual, or disabled individual.

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

SECTION 1. Section 22.04(c)(3), Penal Code, is amended to read as follows:

(3) "Disabled individual" means a person:

(A) with one or more of the following:

(i) autism spectrum disorder, as defined by Section 1355.001, Insurance Code;

(ii) developmental disability, as defined by Section 112.042, Human Resources Code;

(iii) intellectual disability, as defined by Section 591.003, Health and Safety Code;

(iv) severe emotional disturbance, as defined by Section 261.001, Family Code; or

(v) traumatic brain injury, as defined by Section 92.001, Health and Safety Code; or

(B) [~~older than 14 years of age~~] who otherwise by reason of age or physical or mental disease, defect, or injury is substantially unable to protect the person's self [~~himself~~] from harm or to provide food, shelter, or medical care for the person's self [~~himself~~].

SECTION 2. Section 22.04, Penal Code, is amended by

1 amending Subsection (l) and adding Subsection (m) to read as  
2 follows:

3 (1) It is an affirmative defense to prosecution under this  
4 section:

5 (1) that the act or omission was based on treatment in  
6 accordance with the tenets and practices of a recognized religious  
7 method of healing with a generally accepted record of efficacy;

8 (2) for a person charged with an act of omission  
9 causing to a child, elderly individual, or disabled individual a  
10 condition described by Subsection (a)(1), (2), or (3) that:

11 (A) there is no evidence that, on the date prior  
12 to the offense charged, the defendant was aware of an incident of  
13 injury to the child, elderly individual, or disabled individual and  
14 failed to report the incident; and

15 (B) the person:

16 (i) was a victim of family violence, as that  
17 term is defined by Section 71.004, Family Code, committed by a  
18 person who is also charged with an offense against the child,  
19 elderly individual, or disabled individual under this section or  
20 any other section of this title;

21 (ii) did not cause a condition described by  
22 Subsection (a)(1), (2), or (3); and

23 (iii) did not reasonably believe at the  
24 time of the omission that an effort to prevent the person also  
25 charged with an offense against the child, elderly individual, or  
26 disabled individual from committing the offense would have an  
27 effect; or

1           (3) that:

2                   (A) the actor was not more than three years older  
3 than the victim at the time of the offense; and

4                   (B) the victim was a nondisabled or disabled  
5 child at the time of the offense.

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

11           SECTION 3. The change in law made by this Act applies only  
12 to an offense committed on or after the effective date of this Act.  
13 An offense committed before the effective date of this Act is  
14 governed by the law in effect on the date the offense was committed,  
15 and the former law is continued in effect for that purpose. For  
16 purposes of this section, an offense was committed before the  
17 effective date of this Act if any element of the offense was  
18 committed before that date.

19           SECTION 4. This Act takes effect September 1, 2015.