

By: Simmons

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(1), Penal Code, is amended to read

1 as follows:

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

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

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

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

14 (B) the person:

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

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

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

27 (3) that:

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

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

5 SECTION 3. The change in law made by this Act applies only
6 to an offense committed on or after the effective date of this Act.
7 An offense committed before the effective date of this Act is
8 governed by the law in effect on the date the offense was committed,
9 and the former law is continued in effect for that purpose. For
10 purposes of this section, an offense was committed before the
11 effective date of this Act if any element of the offense was
12 committed before that date.

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