

1-1 By: Simmons, et al. (Senate Sponsor - Lucio) H.B. No. 1286
1-2 (In the Senate - Received from the House April 14, 2015;
1-3 May 4, 2015, read first time and referred to Committee on Criminal
1-4 Justice; May 21, 2015, reported favorably by the following vote:
1-5 Yeas 7, Nays 0; May 21, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	<u>Whitmire</u>	X		
1-9	<u>Huffman</u>	X		
1-10	<u>Burton</u>	X		
1-11	<u>Creighton</u>	X		
1-12	<u>Hinojosa</u>	X		
1-13	<u>Menéndez</u>	X		
1-14	<u>Perry</u>	X		

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to the prosecution and punishment of the offense of injury
1-18 to a child, elderly individual, or disabled individual.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Section 22.04(c)(3), Penal Code, is amended to
1-21 read as follows:

1-22 (3) "Disabled individual" means a person:

1-23 (A) with one or more of the following:

1-24 (i) autism spectrum disorder, as defined by
1-25 Section 1355.001, Insurance Code;

1-26 (ii) developmental disability, as defined
1-27 by Section 112.042, Human Resources Code;

1-28 (iii) intellectual disability, as defined
1-29 by Section 591.003, Health and Safety Code;

1-30 (iv) severe emotional disturbance, as
1-31 defined by Section 261.001, Family Code; or

1-32 (v) traumatic brain injury, as defined by
1-33 Section 92.001, Health and Safety Code; or

1-34 (B) [older than 14 years of age] who otherwise by
1-35 reason of age or physical or mental disease, defect, or injury is
1-36 substantially unable to protect the person's self [himself] from
1-37 harm or to provide food, shelter, or medical care for the person's
1-38 self [himself].

1-39 SECTION 2. Section 22.04, Penal Code, is amended by
1-40 amending Subsection (l) and adding Subsection (m) to read as
1-41 follows:

1-42 (1) It is an affirmative defense to prosecution under this
1-43 section:

1-44 (1) that the act or omission was based on treatment in
1-45 accordance with the tenets and practices of a recognized religious
1-46 method of healing with a generally accepted record of efficacy;

1-47 (2) for a person charged with an act of omission
1-48 causing to a child, elderly individual, or disabled individual a
1-49 condition described by Subsection (a)(1), (2), or (3) that:

1-50 (A) there is no evidence that, on the date prior
1-51 to the offense charged, the defendant was aware of an incident of
1-52 injury to the child, elderly individual, or disabled individual and
1-53 failed to report the incident; and

1-54 (B) the person:

1-55 (i) was a victim of family violence, as that
1-56 term is defined by Section 71.004, Family Code, committed by a
1-57 person who is also charged with an offense against the child,
1-58 elderly individual, or disabled individual under this section or
1-59 any other section of this title;

1-60 (ii) did not cause a condition described by
1-61 Subsection (a)(1), (2), or (3); and

2-1 (iii) did not reasonably believe at the
2-2 time of the omission that an effort to prevent the person also
2-3 charged with an offense against the child, elderly individual, or
2-4 disabled individual from committing the offense would have an
2-5 effect; or

2-6 (3) that:

2-7 (A) the actor was not more than three years older
2-8 than the victim at the time of the offense; and

2-9 (B) the victim was a nondisabled or disabled
2-10 child at the time of the offense.

2-11 (m) It is an affirmative defense to prosecution under
2-12 Subsections (a)(1), (2), and (3) for injury to a disabled
2-13 individual that the person did not know and could not reasonably
2-14 have known that the individual was a disabled individual, as
2-15 defined by Subsection (c), at the time of the offense.

2-16 SECTION 3. The change in law made by this Act applies only
2-17 to an offense committed on or after the effective date of this Act.
2-18 An offense committed before the effective date of this Act is
2-19 governed by the law in effect on the date the offense was committed,
2-20 and the former law is continued in effect for that purpose. For
2-21 purposes of this section, an offense was committed before the
2-22 effective date of this Act if any element of the offense was
2-23 committed before that date.

2-24 SECTION 4. This Act takes effect September 1, 2015.

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