

By: González of El Paso

H.B. No. 331

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the prosecution of the offense of indecency with a child
3 and the duty of certain professionals to report that offense and to
4 instruction in school districts regarding consent in sexual
5 relationships.

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

7 SECTION 1. Section 28.004, Education Code, is amended by
8 adding Subsection (e-1) to read as follows:

9 (e-1) The agency shall develop and post on the agency's
10 Internet website instructional materials on consent in sexual
11 relationships that may be used by a school district as part of the
12 district's human sexuality instruction.

13 SECTION 2. Section 261.101, Family Code, is amended by
14 adding Subsection (b-2) to read as follows:

15 (b-2) A professional is not required to make a report under
16 Subsection (b) concerning information received by the professional
17 that a child has been a victim of an offense under Section 21.11,
18 Penal Code, if the professional has cause to believe that the
19 affirmative defense to prosecution under Section 21.11(b), Penal
20 Code, applies to the conduct.

21 SECTION 3. Section 21.11(b), Penal Code, is amended to read
22 as follows:

23 (b) It is an affirmative defense to prosecution under this
24 section that the actor:

1 (1) was not more than three years older than the victim
2 ~~[and of the opposite sex]~~;

3 (2) did not use duress, force, or a threat against the
4 victim at the time of the offense; ~~and~~

5 (3) at the time of the offense:

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

8 (B) was not a person who under Chapter 62 had a
9 reportable conviction or adjudication for an offense under this
10 section; and

11 (4) was not at the time of the offense in a supervisory
12 position over the victim by virtue of participation by the victim
13 and the actor in an athletic, civic, cultural, religious, or youth
14 camp activity.

15 SECTION 4. The change in law made by this Act applies to an
16 offense committed on or after the effective date of this Act and to
17 any criminal action pending on the effective date of this Act for an
18 offense committed before that effective date. A final conviction
19 for an offense under Section 21.11, Penal Code, that exists on the
20 effective date of this Act is unaffected by this Act.

21 SECTION 5. This Act takes effect September 1, 2017.