

By: Moody

H.B. No. 1431

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of the offense of sexual assault.

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

SECTION 1. Section 22.011(b), Penal Code, is amended to read as follows:

(b) A sexual assault under Subsection (a)(1) is without the consent of the other person if:

(1) the actor compels the other person to submit or participate by the use of physical force, ~~or~~ violence, or coercion;

(2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person or to cause harm to the other person, and the other person believes that the actor has the present ability to execute the threat;

(3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist;

(4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it;

(5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is

1 occurring;

2 (6) the actor has intentionally impaired the other
3 person's power to appraise or control the other person's conduct by
4 administering any substance without the other person's knowledge;

5 (7) the actor compels the other person to submit or
6 participate by threatening to use force or violence against any
7 person, and the other person believes that the actor has the ability
8 to execute the threat;

9 (8) ~~[the actor is a public servant who coerces the~~
10 ~~other person to submit or participate,~~

11 ~~[(9)]~~ the actor is a mental health services provider
12 or a health care services provider who causes the other person, who
13 is a patient or former patient of the actor, to submit or
14 participate by exploiting the other person's emotional dependency
15 on the actor;

16 (9) ~~[(10)]~~ the actor is a clergyman who causes the
17 other person to submit or participate by exploiting the other
18 person's emotional dependency on the clergyman in the clergyman's
19 professional character as spiritual adviser; or

20 (10) ~~[(11)]~~ the actor is an employee of a facility
21 where the other person is a resident, unless the employee and
22 resident are formally or informally married to each other under
23 Chapter 2, Family Code.

24 SECTION 2. The change in law made by this Act applies only
25 to an offense committed on or after the effective date of this Act.
26 An offense committed before the effective date of this Act is
27 governed by the law in effect on the date the offense was committed,

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1 and the former law is continued in effect for that purpose. For
2 purposes of this section, an offense was committed before the
3 effective date of this Act if any element of the offense occurred
4 before that date.

5 SECTION 3. This Act takes effect September 1, 2017.