

By: Burkett, Button

H.B. No. 3019

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the prosecution for the offense of injury to a child,  
3 elderly individual, or disabled individual.

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

5 SECTION 1. Sections 22.04(a-1) and (i), Penal Code, are  
6 amended to read as follows:

7 (a-1) A person commits an offense if the person is an owner,  
8 operator, or employee of a group home, nursing facility, assisted  
9 living facility, boarding home facility, intermediate care  
10 facility for persons with an intellectual or developmental  
11 disability [~~mental retardation~~], or other institutional care  
12 facility and the person intentionally, knowingly, recklessly, or  
13 with criminal negligence by omission causes to a child, elderly  
14 individual, or disabled individual who is a resident of that group  
15 home or facility:

16 (1) serious bodily injury;

17 (2) serious mental deficiency, impairment, or injury;

18 or

19 (3) bodily injury.

20 (i) It is an affirmative defense to prosecution under  
21 Subsection (b)(2) that before the offense the actor:

22 (1) notified in person the child, elderly individual,  
23 or disabled individual that the actor [~~he~~] would no longer provide  
24 any of the care described by Subsection (d), [+] and

1           ~~[(2)]~~ notified in writing the parents or a person,  
2 other than the actor, ~~[himself]~~ acting in loco parentis to the  
3 child, elderly individual, or disabled individual that the actor  
4 ~~[he]~~ would no longer provide any of the care described by Subsection  
5 (d); or

6           (2) ~~[(3)]~~ notified in writing the Department of Family  
7 and Protective ~~[and Regulatory]~~ Services that the actor ~~[he]~~ would  
8 no longer provide any of the care described by ~~[set forth in]~~  
9 Subsection (d).

10           SECTION 2. Section 22.04(c)(3), Penal Code, is amended to  
11 read as follows:

12           (3) "Disabled individual" means a person:  
13           (A) with one or more of the following:  
14               (i) autism spectrum disorder, as defined by  
15 Section 1355.001, Insurance Code;  
16               (ii) developmental disability, as defined  
17 by Section 112.042, Human Resources Code;  
18               (iii) intellectual disability, as defined  
19 by Section 591.003, Health and Safety Code;  
20               (iv) severe emotional disturbance, as  
21 defined by Section 261.001, Family Code; ~~[or]~~  
22               (v) traumatic brain injury, as defined by  
23 Section 92.001, Health and Safety Code; or  
24               (vi) mental illness, as defined by Section  
25 571.003, Health and Safety Code; or

26           (B) who otherwise by reason of age or physical or  
27 mental disease, defect, or injury is substantially unable to

1 protect the person's self from harm or to provide food, shelter, or  
2 medical care for the person's self.

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

11 SECTION 4. This Act takes effect September 1, 2017.