

By: Burkett

H.B. No. 3019

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution for 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. Sections 22.04(a-1) and (i), Penal Code, are amended to read as follows:

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

(1) serious bodily injury;

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

or

(3) bodily injury.

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

(1) notified in person the child, elderly individual, or disabled individual that the actor [~~he~~] would no longer provide 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.