

By: Gervin-Hawkins

H.B. No. 3301

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the punishment for the offense of injury to a child,
3 elderly individual, or disabled individual and creating the offense
4 of continuous injury to a child, elderly individual, or disabled
5 individual.

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

7 SECTION 1. Section 22.04, Penal Code, is amended by
8 amending Subsection (f) and adding Subsection (f-1) to read as
9 follows:

10 (f) Except as provided by Subsection (f-1), an ~~An~~ offense
11 under Subsection (a)(3) or (a-1)(3) is a felony of the third degree
12 when the conduct is committed intentionally or knowingly, except
13 that an offense under Subsection (a)(3) is a felony of the second
14 degree when the conduct is committed intentionally or knowingly and
15 the victim is a disabled individual residing in a center, as defined
16 by Section 555.001, Health and Safety Code, or in a facility
17 licensed under Chapter 252, Health and Safety Code, and the actor is
18 an employee of the center or facility whose employment involved
19 providing direct care for the victim. When the conduct is engaged
20 in recklessly, the offense is a state jail felony.

21 (f-1) An offense under Subsection (a)(3) or (a-1)(3) is a
22 felony of the first degree if:

23 (1) the conduct was committed intentionally or
24 knowingly; and

1 (2) either:

2 (A) the victim of the offense was younger than
3 six years of age at the time the offense is committed; or

4 (B) it is shown on the trial of the offense that
5 the defendant has been previously convicted of an offense under
6 this section or Section 22.042.

7 SECTION 2. Chapter 22, Penal Code, is amended by adding
8 Section 22.042 to read as follows:

9 Sec. 22.042. CONTINUOUS INJURY TO A CHILD, ELDERLY
10 INDIVIDUAL, OR DISABLED INDIVIDUAL. (a) A person commits an
11 offense if, during a period that is 30 or more days but less than
12 five years in duration, the person engages two or more times in
13 conduct that constitutes an offense under Section 22.04 against one
14 or more victims.

15 (b) If a jury is the trier of fact, members of the jury are
16 not required to agree unanimously on which specific conduct engaged
17 in by the defendant constituted an offense under Section 22.04 or on
18 which exact date the defendant engaged in that conduct. The jury
19 must agree unanimously that the defendant, during a period that is
20 30 or more days but less than five years in duration, engaged in
21 conduct that constituted an offense under Section 22.04.

22 (c) If the victim of an offense under Subsection (a) is the
23 same victim as a victim of an offense under Section 22.04, a
24 defendant may not be convicted of the offense under Section 22.04 in
25 the same criminal action as the offense under Subsection (a),
26 unless the offense under Section 22.04:

27 (1) is charged in the alternative;

1 (2) occurred outside the period in which the offense
2 alleged under Subsection (a) was committed; or

3 (3) is considered by the trier of fact to be a lesser
4 included offense of the offense alleged under Subsection (a).

5 (d) A defendant may not be charged with more than one count
6 under Subsection (a) if all of the conduct that constitutes an
7 offense under Section 22.04 is alleged to have been committed
8 against the same victim.

9 (e) An offense under this section is a felony of the first
10 degree, except that the offense is a felony of the first degree
11 punishable by imprisonment in the Texas Department of Criminal
12 Justice for life or for any term of not more than 99 years or less
13 than 15 years if:

14 (1) the conduct constituting at least one of the
15 offenses under Section 22.04 caused serious bodily injury or
16 serious mental deficiency, impairment, or injury to the victim; or

17 (2) the actor used or exhibited a deadly weapon during
18 the commission of at least one of the offenses under Section 22.04.

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

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