

By: Wu

H.B. No. 1357

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of and punishment for the criminal offense of failure to report certain sexual offenses committed against a child; increasing criminal penalties.

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

SECTION 1. Section 38.17, Penal Code, is amended to read as follows:

Sec. 38.17. FAILURE TO ~~[STOP OR]~~ REPORT CERTAIN ~~[AGGRAVATED]~~ SEXUAL OFFENSES COMMITTED AGAINST A ~~[ASSAULT OF]~~ CHILD. (a) In this section, "sexual offense against a child" means conduct that constitutes an offense under:

(1) Section 21.02 (Continuous Sexual Abuse of Young Child or Children);

(2) Section 21.11 (Indecency with a Child);

(3) Section 22.011(a)(2) (Sexual Assault of a Child);

or

(4) Section 22.021(a)(1)(B) (Aggravated Sexual Assault of a Child).

(b) A person~~[, other than a person who has a relationship with a child described by Section 22.04(b),]~~ commits an offense if the person:

(1) knows or has reason to believe that another person has committed a sexual offense against a child ~~[the actor observes the commission or attempted commission of an offense prohibited by~~

1 ~~Section 21.02 or 22.021(a)(2)(B) under circumstances in which a~~  
2 ~~reasonable person would believe that an offense of a sexual or~~  
3 ~~assaultive nature was being committed or was about to be committed~~  
4 ~~against the child]; and~~

5 (2) ~~[the actor] fails to [assist the child or]~~  
6 immediately report the commission of the offense to a ~~[peace~~  
7 ~~officer or]~~ law enforcement agency or to the Department of Family  
8 and Protective Services~~;~~ and

9 ~~[(3) the actor could assist the child or immediately~~  
10 ~~report the commission of the offense without placing the actor in~~  
11 ~~danger of suffering serious bodily injury or death].~~

12 (c) ~~(b)~~ An offense under this section is a state jail  
13 felony, except that the offense is:

14 (1) except as provided by Subdivision (2), a felony of  
15 the third degree if it is shown on the trial of the offense that the  
16 actor also engaged in conduct intended to hinder the investigation  
17 or prosecution of the sexual offense against a child, including by:

18 (A) altering, destroying, or concealing any  
19 record, document, or thing to impair its verity, legibility, or  
20 availability as evidence in the investigation or prosecution;

21 (B) interfering with the willingness of a witness  
22 to the offense to report the offense to, or cooperate in the  
23 investigation or prosecution of the offense with, a law enforcement  
24 agency or the Department of Family and Protective Services or  
25 otherwise preventing the report by or cooperation of the witness;

26 (C) harboring or concealing the person who  
27 committed the offense;

1           (D) providing or aiding in providing the person  
2 who committed the offense with a means to avoid investigation or  
3 arrest, including by assisting the person in relocating to another  
4 area; or

5           (E) providing false or misleading information  
6 regarding the offense to a law enforcement agency or to the  
7 Department of Family and Protective Services; or

8           (2) a felony of the second degree if:

9           (A) the actor engaged in conduct described by  
10 Subdivision (1);

11           (B) the person who committed the sexual offense  
12 against a child commits a subsequent sexual offense against a  
13 child; and

14           (C) the actor's failure to report the sexual  
15 offense against a child enabled or facilitated the person's  
16 commission of the subsequent offense [~~Class A misdemeanor~~].

17           (d) It is a defense to prosecution under this section that  
18 the actor complied with a duty to report the sexual offense against  
19 a child to a law enforcement agency or to the Department of Family  
20 and Protective Services as required by other law.

21           (e) If conduct that constitutes an offense under this  
22 section also constitutes an offense under another law, the actor  
23 may be prosecuted under this section, the other law, or both.

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,

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, 2019.