

By: Collier

H.B. No. 2049

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the prosecution of the offense of sexual assault.

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

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

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

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

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

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

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

22 (5) the other person has not consented and the actor
23 knows the other person is unaware that the sexual assault is
24 occurring;

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

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

8 (8) the actor is a public servant who coerces the other
9 person to submit or participate;

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

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

18 (11) the actor is an employee of a facility where the
19 other person is a resident, unless the employee and resident are
20 formally or informally married to each other under Chapter 2,
21 Family Code;

22 (12) the actor knows the other person is intoxicated
23 by any substance such that the other person is incapable of
24 appraising the nature of the act;

25 (13) the actor knows that the other person has
26 withdrawn consent to the act and the actor persists in the act after
27 consent is withdrawn; or

1 (14) the actor is a caregiver hired to assist the other
2 person with activities of daily life and causes the other person to
3 submit or participate by exploiting the other person's dependency
4 on the actor.

5 SECTION 2. The change in law made by this Act applies only
6 to an offense committed on or after the effective date of this Act.
7 An offense committed before the effective date of this Act is
8 governed by the law in effect on the date the offense was committed,
9 and the former law is continued in effect for that purpose. For
10 purposes of this section, an offense was committed before the
11 effective date of this Act if any element of the offense occurred
12 before that date.

13 SECTION 3. This Act takes effect September 1, 2019.