

By: Farrar

H.B. No. 3555

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the prosecution of the criminal offense of sexual
3 assault.

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

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

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

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

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

16 (3) the other person has not consented and the actor
17 knows the other person is:

18 (A) unconscious;

19 (B) [~~or~~] physically unable to resist; or

20 (C) physically unable to communicate a lack of
21 consent because of a debilitating level of fear;

22 (4) the actor knows that as a result of mental disease
23 or defect the other person is at the time of the sexual assault
24 incapable either of appraising the nature of the act or of resisting

1 it;

2 (5) the other person has not consented and the actor
3 knows the other person is unaware that the sexual assault is
4 occurring;

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

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

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

14 (9) the actor is a mental health services provider [~~or~~
15 ~~a health care services provider~~] who causes the other person, who is
16 a patient or former patient of the actor, to submit or participate
17 by exploiting the other person's emotional dependency on the actor;

18 (9-a) the actor is a health care services provider who
19 causes the other person, who is a patient or client or former
20 patient or client of the actor, to submit or participate by
21 exploiting the other person's dependency on the actor acting in a
22 professional capacity as a health care services provider;

23 (10) the actor is a clergyman who causes the other
24 person to submit or participate by exploiting the other person's
25 emotional dependency on the clergyman in the clergyman's
26 professional character as spiritual adviser; or

27 (11) the actor is an employee of a facility where the

1 other person is a resident, unless the employee and resident are
2 formally or informally married to each other under Chapter 2,
3 Family Code.

4 SECTION 2. Section 22.011(c)(3), Penal Code, is amended to
5 read as follows:

6 (3) "Health care services provider" means:

7 (A) a physician licensed under Subtitle B, Title
8 3, Occupations Code;

9 (B) a chiropractor licensed under Chapter 201,
10 Occupations Code;

11 (C) a physical therapist licensed under Chapter
12 453, Occupations Code;

13 (D) a physician assistant licensed under Chapter
14 204, Occupations Code; ~~or~~

15 (E) a registered nurse, a vocational nurse, or an
16 advanced practice nurse licensed under Chapter 301, Occupations
17 Code; or

18 (F) a massage therapist licensed under Chapter
19 455, Occupations Code.

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

27 SECTION 4. This Act takes effect September 1, 2019.