

By: Klick

H.B. No. 3705

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. Sections 22.011(b) and (f), Penal Code, are
5 amended to 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; or

22 (12) the actor is a health care services provider who,
23 in the course of performing an assisted reproduction procedure on
24 the other person, uses human reproductive material from a donor
25 knowing that the other person has not expressly consented to the use
26 of material from that donor.

27 (f) An offense under this section is a felony of the second

1 degree, except that an offense under this section is:

2 (1) a felony of the first degree if the victim was a
3 person whom the actor was prohibited from marrying or purporting to
4 marry or with whom the actor was prohibited from living under the
5 appearance of being married under Section 25.01; or

6 (2) a state jail felony if the offense is committed
7 under Subsection (a)(1) and the actor has not received express
8 consent as described by Subsection (b)(12).

9 SECTION 2. Section 22.011(c), Penal Code, is amended by
10 adding Subdivisions (6) and (7) to read as follows:

11 (6) "Assisted reproduction" and "donor" have the
12 meanings assigned by Section 160.102, Family Code.

13 (7) "Human reproductive material" means:

14 (A) a human spermatozoon or ovum; or

15 (B) a human organism at any stage of development
16 from fertilized ovum to embryo.

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

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