

By: Huffman

S.B. No. 1259

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. Article 12.01, Code of Criminal Procedure, is
5 amended to read as follows:

6 Art. 12.01. FELONIES. Except as provided in Article 12.03,
7 felony indictments may be presented within these limits, and not
8 afterward:

9 (1) no limitation:

10 (A) murder and manslaughter;

11 (B) sexual assault under Section 22.011(a)(2),
12 Penal Code, or aggravated sexual assault under Section
13 22.021(a)(1)(B), Penal Code;

14 (C) sexual assault, if:

15 (i) during the investigation of the offense
16 biological matter is collected and subjected to forensic DNA
17 testing and the testing results show that the matter does not match
18 the victim or any other person whose identity is readily
19 ascertained; or

20 (ii) probable cause exists to believe that
21 the defendant has committed the same or a similar sexual offense
22 against five or more victims;

23 (D) continuous sexual abuse of young child or
24 children under Section 21.02, Penal Code;

- 1 (E) indecency with a child under Section 21.11,
2 Penal Code;
- 3 (F) an offense involving leaving the scene of an
4 accident under Section 550.021, Transportation Code, if the
5 accident resulted in the death of a person;
- 6 (G) trafficking of persons under Section
7 20A.02(a)(7) or (8), Penal Code;
- 8 (H) continuous trafficking of persons under
9 Section 20A.03, Penal Code; or
- 10 (I) compelling prostitution under Section
11 43.05(a)(2), Penal Code;
- 12 (2) ten years from the date of the commission of the
13 offense:
- 14 (A) theft of any estate, real, personal or mixed,
15 by an executor, administrator, guardian or trustee, with intent to
16 defraud any creditor, heir, legatee, ward, distributee,
17 beneficiary or settlor of a trust interested in such estate;
- 18 (B) theft by a public servant of government
19 property over which he exercises control in his official capacity;
- 20 (C) forgery or the uttering, using or passing of
21 forged instruments;
- 22 (D) injury to an elderly or disabled individual
23 punishable as a felony of the first degree under Section 22.04,
24 Penal Code;
- 25 (E) sexual assault, except as provided by
26 Subdivision (1) or (7);
- 27 (F) arson;

1 (G) trafficking of persons under Section
2 20A.02(a)(1), (2), (3), or (4), Penal Code; or

3 (H) compelling prostitution under Section
4 43.05(a)(1), Penal Code;

5 (3) seven years from the date of the commission of the
6 offense:

7 (A) misapplication of fiduciary property or
8 property of a financial institution;

9 (B) securing execution of document by deception;

10 (C) a felony violation under Chapter 162, Tax
11 Code;

12 (D) false statement to obtain property or credit
13 under Section 32.32, Penal Code;

14 (E) money laundering;

15 (F) credit card or debit card abuse under Section
16 32.31, Penal Code;

17 (G) fraudulent use or possession of identifying
18 information under Section 32.51, Penal Code;

19 (H) exploitation of a child, elderly individual,
20 or disabled individual under Section 32.53, Penal Code;

21 (I) Medicaid fraud under Section 35A.02, Penal
22 Code; or

23 (J) bigamy under Section 25.01, Penal Code,
24 except as provided by Subdivision (6);

25 (4) five years from the date of the commission of the
26 offense:

27 (A) theft or robbery;

1 (B) except as provided by Subdivision (5),
2 kidnapping or burglary;

3 (C) injury to an elderly or disabled individual
4 that is not punishable as a felony of the first degree under Section
5 22.04, Penal Code;

6 (D) abandoning or endangering a child; or

7 (E) insurance fraud;

8 (5) if the investigation of the offense shows that the
9 victim is younger than 17 years of age at the time the offense is
10 committed, 20 years from the 18th birthday of the victim of one of
11 the following offenses:

12 (A) sexual performance by a child under Section
13 43.25, Penal Code;

14 (B) aggravated kidnapping under Section
15 20.04(a)(4), Penal Code, if the defendant committed the offense
16 with the intent to violate or abuse the victim sexually; or

17 (C) burglary under Section 30.02, Penal Code, if
18 the offense is punishable under Subsection (d) of that section and
19 the defendant committed the offense with the intent to commit an
20 offense described by Subdivision (1)(B) or (D) of this article or
21 Paragraph (B) of this subdivision;

22 (6) ten years from the 18th birthday of the victim of
23 the offense:

24 (A) trafficking of persons under Section
25 20A.02(a)(5) or (6), Penal Code;

26 (B) injury to a child under Section 22.04, Penal
27 Code; or

1 (C) bigamy under Section 25.01, Penal Code, if
2 the investigation of the offense shows that the person, other than
3 the legal spouse of the defendant, whom the defendant marries or
4 purports to marry or with whom the defendant lives under the
5 appearance of being married is younger than 18 years of age at the
6 time the offense is committed; [~~or~~]

7 (7) two years from the date the offense was
8 discovered: sexual assault punishable as a state jail felony under
9 Section 22.011(f)(2), Penal Code; or

10 (8) three years from the date of the commission of the
11 offense: all other felonies.

12 SECTION 2. Sections 22.011(b) and (f), Penal Code, are
13 amended to read as follows:

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

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

18 (2) the actor compels the other person to submit or
19 participate by threatening to use force or violence against the
20 other person or to cause harm to the other person, and the other
21 person believes that the actor has the present ability to execute
22 the threat;

23 (3) the other person has not consented and the actor
24 knows the other person is unconscious or physically unable to
25 resist;

26 (4) the actor knows that as a result of mental disease
27 or defect the other person is at the time of the sexual assault

1 incapable either of appraising the nature of the act or of resisting
2 it;

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

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

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

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

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

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

23 (11) the actor is an employee of a facility where the
24 other person is a resident, unless the employee and resident are
25 formally or informally married to each other under Chapter 2,
26 Family Code; or

27 (12) the actor is a health care services provider who,

1 in the course of performing an assisted reproduction procedure on
2 the other person, uses human reproductive material from a donor
3 knowing that the other person has not expressly consented to the use
4 of material from that donor.

5 (f) An offense under this section is a felony of the second
6 degree, except that an offense under this section is:

7 (1) a felony of the first degree if the victim was a
8 person whom the actor was prohibited from marrying or purporting to
9 marry or with whom the actor was prohibited from living under the
10 appearance of being married under Section 25.01; or

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

14 SECTION 3. Section 22.011(c), Penal Code, is amended by
15 adding Subdivisions (6) and (7) to read as follows:

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

18 (7) "Human reproductive material" means:

19 (A) a human spermatozoon or ovum; or

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

22 SECTION 4. The changes in law made by this Act apply only to
23 an offense committed on or after the effective date of this Act. An
24 offense committed before the effective date of this Act is governed
25 by the law in effect when the offense was committed, and the former
26 law is continued in effect for that purpose. For purposes of this
27 section, an offense was committed before the effective date of this

1 Act if any element of the offense occurred before that date.

2 SECTION 5. This Act takes effect September 1, 2019.