

By: Menéndez

S.B. No. 1542

A BILL TO BE ENTITLED

AN ACT

relating to the punishment for the offense of injury to a child,  
elderly individual, or disabled individual and creating the offense  
of continuous injury to a child.

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

SECTION 1. Section 22.04, Penal Code, is amended by  
amending Subsection (f) and adding Subsection (f-1) to read as  
follows:

(f) Except as provided by Subsection (f-1), an ~~An~~ offense  
under Subsection (a)(3) or (a-1)(3) is a felony of the third degree  
when the conduct is committed intentionally or knowingly, except  
that an offense under Subsection (a)(3) is a felony of the second  
degree when the conduct is committed intentionally or knowingly and  
the victim is a disabled individual residing in a center, as defined  
by Section 555.001, Health and Safety Code, or in a facility  
licensed under Chapter 252, Health and Safety Code, and the actor is  
an employee of the center or facility whose employment involved  
providing direct care for the victim. When the conduct is engaged  
in recklessly, the offense is a state jail felony.

(f-1) An offense under Subsection (a)(3) or (a-1)(3) is a  
felony of the second degree if:

(1) the conduct was committed intentionally or  
knowingly;

(2) excessive force was used in the conduct that

1 resulted in the injury; and

2 (3) either:

3 (A) the victim of the offense was younger than  
4 six years of age at the time the offense was committed; or

5 (B) it is shown on the trial of the offense that  
6 the defendant has been previously convicted of an offense under  
7 this section or Section 22.042.

8 SECTION 2. Chapter 22, Penal Code, is amended by adding  
9 Section 22.042 to read as follows:

10 Sec. 22.042. CONTINUOUS INJURY TO A CHILD. (a) A person  
11 commits an offense under this section if, during a period that is at  
12 least 30 days but not more than five years, the person engages two  
13 or more times in conduct that constitutes an offense under Section  
14 22.04 and the victim is a child.

15 (b) A defendant may not be charged with more than one count  
16 under Subsection (a) if the conduct that constitutes an offense  
17 under Section 22.04 is alleged to have been committed against the  
18 same victim.

19 (c) If a jury is the trier of fact, members of the jury are  
20 not required to agree unanimously on which specific conduct engaged  
21 in by the defendant constitutes an offense under Section 22.04 or on  
22 which exact date the defendant engaged in that conduct. The jury  
23 must agree unanimously that the defendant, during a period that is  
24 at least 30 days but not more than five years, engaged two or more  
25 times in conduct that constitutes an offense under Section 22.04.

26 (d) A defendant may not be convicted of an offense under  
27 Section 22.04 and an offense under Subsection (a) of this section

1 against the same victim in the same criminal action unless the  
2 offense under Section 22.04:

3 (1) is charged in the alternative;

4 (2) occurred outside the period in which the offense  
5 alleged under Subsection (a) was committed; or

6 (3) is considered by the trier of fact to be a lesser  
7 included offense of the offense alleged under Subsection (a).

8 (e) An offense under this section is a felony of the second  
9 degree, except that the offense is a felony of the second degree  
10 punishable by imprisonment in the Texas Department of Criminal  
11 Justice for a term of not more than 20 years or less than 15 years  
12 if:

13 (1) the conduct constituting at least one of the  
14 offenses under Section 22.04 caused serious bodily injury or  
15 serious mental deficiency, impairment, or injury to the victim; or

16 (2) the actor used or exhibited a deadly weapon during  
17 the commission of at least one of the offenses under Section 22.04.

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

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