

By: Collier

H.B. No. 4135

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 unconscious or physically unable to  
18 resist;

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

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

1 occurring;

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

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

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

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

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

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

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

1           (13) the actor is a mental health services provider, a  
2 health care services provider, or a person who purports to be a  
3 health care services provider and:

4           (A) the actor creates or confirms a false  
5 impression of law or fact that the actor knows or has reason to  
6 believe is false; and

7           (B) the other person submits or participates on  
8 the basis of the false impression.

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

11           (3) "Health care services provider" means a person who  
12 is licensed, certified, or otherwise authorized by the laws of this  
13 state to provide health care services in the ordinary course of  
14 business or practice of a profession, including:

15           (A) a physician licensed under Subtitle B, Title  
16 3, Occupations Code;

17           (B) a chiropractor licensed under Chapter 201,  
18 Occupations Code;

19           (C) a physical therapist licensed under Chapter  
20 453, Occupations Code;

21           (D) a physician assistant licensed under Chapter  
22 204, Occupations Code; or

23           (E) a registered nurse, a vocational nurse, or an  
24 advanced practice nurse licensed under Chapter 301, Occupations  
25 Code.

26           SECTION 3. The changes in law made by this Act apply only to  
27 an offense committed on or after the effective date of this Act. An

1 offense committed before the effective date of this Act is governed  
2 by the law in effect when the offense was committed, and the former  
3 law is continued in effect for that purpose. For purposes of this  
4 section, an offense was committed before the effective date of this  
5 Act if any element of the offense occurred before that date.

6 SECTION 4. This Act takes effect September 1, 2021.