

AN ACT

relating to the prosecution of the offense of sexual assault.

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

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

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

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

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

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

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

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

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          (13) the actor is a coach or tutor who causes the other

1 person to submit or participate by using the actor's power or  
2 influence to exploit the other person's dependency on the actor; or  
3 (14) the actor is a caregiver hired to assist the other  
4 person with activities of daily life and causes the other person to  
5 submit or participate by exploiting the other person's dependency  
6 on the actor.

7 SECTION 2. The change in law made by this Act applies only  
8 to an offense committed on or after the effective date of this Act.  
9 An offense committed before the effective date of this Act is  
10 governed by the law in effect on the date the offense was committed,  
11 and the former law is continued in effect for that purpose. For  
12 purposes of this section, an offense was committed before the  
13 effective date of this Act if any element of the offense occurred  
14 before that date.

15 SECTION 3. This Act takes effect September 1, 2021.

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President of the Senate

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Speaker of the House

I hereby certify that S.B. No. 1164 passed the Senate on April 19, 2021, by the following vote: Yeas 31, Nays 0; May 27, 2021, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 28, 2021, House granted request of the Senate; May 29, 2021, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

I hereby certify that S.B. No. 1164 passed the House, with amendments, on May 24, 2021, by the following vote: Yeas 146, Nays 0, one present not voting; May 28, 2021, House granted request of the Senate for appointment of Conference Committee; May 30, 2021, House adopted Conference Committee Report by the following vote: Yeas 137, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor