

By: Eckhardt

S.B. No. 212

A BILL TO BE ENTITLED

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;

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;
3 ~~[or]~~

4 (14) the actor is a caregiver hired to assist the other
5 person with activities of daily life and causes the other person to
6 submit or participate by exploiting the other person's dependency
7 on the actor; or

8 (15) the actor is a mental health services provider, a
9 health care services provider, or a person purporting to be a health
10 care services provider who, during the course of providing actual
11 or purported mental health services or health care services to the
12 other person, causes the other person to submit or participate by
13 creating or confirming a false impression of law or fact.

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

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

20 (A) a physician licensed under Subtitle B, Title
21 3, Occupations Code;

22 (B) a chiropractor licensed under Chapter 201,
23 Occupations Code;

24 (C) a physical therapist licensed under Chapter
25 453, Occupations Code;

26 (D) a physician assistant licensed under Chapter
27 204, Occupations Code; or

1 (E) a registered nurse, a vocational nurse, or an
2 advanced practice nurse licensed under Chapter 301, Occupations
3 Code.

4 SECTION 3. The changes in law made by this Act apply only to
5 an offense committed on or after the effective date of this Act. An
6 offense committed before the effective date of this Act is governed
7 by the law in effect when the offense was committed, and the former
8 law is continued in effect for that purpose. For purposes of this
9 section, an offense was committed before the effective date of this
10 Act if any element of the offense occurred before that date.

11 SECTION 4. This Act takes effect September 1, 2023.