

By: Johnson

H.B. No. 324

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 consent, as defined by Section 1.07(a), is not present or 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 or reasonably should know the other person is:

(A) unconscious;

(B) ~~[or]~~ physically unable to resist;

(C) incapable either of appraising the nature of the act or of resisting the act; or

(D) unaware that the sexual assault is occurring;

(4) the actor knows or reasonably should know that the other person has not consented, either verbally or through another

1 positive affirmation, to the specific act or that the person has  
2 withdrawn consent to the act and the actor persists after consent is  
3 withdrawn [~~the actor knows that as a result of mental disease or~~  
4 ~~defect the other person is at the time of the sexual assault~~  
5 ~~incapable either of appraising the nature of the act or of resisting~~  
6 ~~it~~];

7 (5) the actor knows or reasonably should know the  
8 other person is intoxicated by any substance such that the other  
9 person is incapable of consenting to the act [~~the other person has~~  
10 ~~not consented and the actor knows the other person is unaware that~~  
11 ~~the sexual assault is occurring~~];

12 (6) [~~the actor has intentionally impaired the other~~  
13 ~~person's power to appraise or control the other person's conduct by~~  
14 ~~administering any substance without the other person's knowledge,~~

15 [~~(7)~~] the actor compels the other person to submit or  
16 participate by threatening to use force or violence against any  
17 person, and the other person believes that the actor has the ability  
18 to execute the threat;

19 (7) [~~(8)~~] the actor is a public servant, or  
20 impersonates a public servant, who coerces the other person to  
21 submit or participate;

22 (8) [~~(9)~~] the actor is a mental health services  
23 provider or a health care services provider who causes the other  
24 person, who is a patient or former patient of the actor, to submit  
25 or participate by exploiting the other person's emotional  
26 dependency on the actor;

27 (9) [~~(10)~~] the actor is a clergyman, or impersonates a

1 clergyman, who causes the other person to submit or participate by  
2 exploiting the other person's emotional dependency on the actor  
3 [~~clergyman~~] in the actor's [~~clergyman's~~] professional or  
4 impersonated character as spiritual adviser;

5 (10) [~~(11)~~] the actor is an employee of a facility, or  
6 impersonates an employee of a facility, where the other person is a  
7 resident, unless the employee and resident are formally or  
8 informally married to each other under Chapter 2, Family Code;

9 (11) [~~(12)~~] the actor is a health care services  
10 provider who, in the course of performing an assisted reproduction  
11 procedure on the other person, uses human reproductive material  
12 from a donor knowing that the other person has not expressly  
13 consented to the use of material from that donor;

14 (12) [~~(13)~~] the actor is a coach or tutor, or  
15 impersonates a coach or tutor, who causes the other person to submit  
16 or participate by using the actor's power or influence to exploit  
17 the other person's dependency on the actor; [~~or~~]

18 (13) [~~(14)~~] the actor is a caregiver hired to assist  
19 the other person with activities of daily life, or impersonates  
20 such a caregiver, and causes the other person to submit or  
21 participate by exploiting the other person's dependency on the  
22 actor; or

23 (14) the actor is a mental health services provider, a  
24 health care services provider, or a person purporting to be a health  
25 care services provider who, during the course of providing actual  
26 or purported mental health services or health care services to the  
27 other person, causes the other person to submit or participate by

1 creating or confirming a false impression of law or fact.

2 SECTION 2. Section 154.051(d-1), Occupations Code, is  
3 amended to read as follows:

4 (d-1) The board may not consider or act on a complaint  
5 involving an alleged violation of Section 22.011(b)(11)  
6 [~~22.011(b)(12)~~], Penal Code, that occurred more than seven years  
7 before the date on which the complaint is received by the board or  
8 more than 2 years from the date the complainant knew or should have  
9 known of the facts giving rise to the complaint, whichever is later.

10 SECTION 3. The change in law made by this Act applies only  
11 to an offense committed on or after the effective date of this Act.  
12 An offense committed before the effective date of this Act is  
13 governed by the law in effect on the date the offense was committed,  
14 and the former law is continued in effect for that purpose. For  
15 purposes of this section, an offense was committed before the  
16 effective date of this Act if any element of the offense occurred  
17 before that date.

18 SECTION 4. This Act takes effect September 1, 2025.