

1-1 By: Huffman S.B. No. 1259
1-2 (In the Senate - Filed February 28, 2019; March 7, 2019,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 April 8, 2019, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 8, 2019,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Whitmire	X		
1-10	Huffman	X		
1-11	Buckingham	X		
1-12	Flores	X		
1-13	Hughes	X		
1-14	Miles	X		
1-15	Perry		X	

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 1259 By: Huffman

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the prosecution of the offense of sexual assault.
1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-21 SECTION 1. Article 12.01, Code of Criminal Procedure, is
1-22 amended to read as follows:
1-23 Art. 12.01. FELONIES. Except as provided in Article 12.03,
1-24 felony indictments may be presented within these limits, and not
1-25 afterward:
1-26 (1) no limitation:
1-27 (A) murder and manslaughter;
1-28 (B) sexual assault under Section 22.011(a)(2),
1-29 Penal Code, or aggravated sexual assault under Section
1-30 22.021(a)(1)(B), Penal Code;
1-31 (C) sexual assault, if:
1-32 (i) during the investigation of the offense
1-33 biological matter is collected and subjected to forensic DNA
1-34 testing and the testing results show that the matter does not match
1-35 the victim or any other person whose identity is readily
1-36 ascertained; or
1-37 (ii) probable cause exists to believe that
1-38 the defendant has committed the same or a similar sexual offense
1-39 against five or more victims;
1-40 (D) continuous sexual abuse of young child or
1-41 children under Section 21.02, Penal Code;
1-42 (E) indecency with a child under Section 21.11,
1-43 Penal Code;
1-44 (F) an offense involving leaving the scene of an
1-45 accident under Section 550.021, Transportation Code, if the
1-46 accident resulted in the death of a person;
1-47 (G) trafficking of persons under Section
1-48 20A.02(a)(7) or (8), Penal Code;
1-49 (H) continuous trafficking of persons under
1-50 Section 20A.03, Penal Code; or
1-51 (I) compelling prostitution under Section
1-52 43.05(a)(2), Penal Code;
1-53 (2) ten years from the date of the commission of the
1-54 offense:
1-55 (A) theft of any estate, real, personal or mixed,
1-56 by an executor, administrator, guardian or trustee, with intent to
1-57 defraud any creditor, heir, legatee, ward, distributee,
1-58 beneficiary or settlor of a trust interested in such estate;
1-59 (B) theft by a public servant of government
1-60 property over which he exercises control in his official capacity;

2-1 (C) forgery or the uttering, using or passing of
2-2 forged instruments;
2-3 (D) injury to an elderly or disabled individual
2-4 punishable as a felony of the first degree under Section 22.04,
2-5 Penal Code;
2-6 (E) sexual assault, except as provided by
2-7 Subdivision (1) or (7);
2-8 (F) arson;
2-9 (G) trafficking of persons under Section
2-10 20A.02(a)(1), (2), (3), or (4), Penal Code; or
2-11 (H) compelling prostitution under Section
2-12 43.05(a)(1), Penal Code;
2-13 (3) seven years from the date of the commission of the
2-14 offense:
2-15 (A) misapplication of fiduciary property or
2-16 property of a financial institution;
2-17 (B) securing execution of document by deception;
2-18 (C) a felony violation under Chapter 162, Tax
2-19 Code;
2-20 (D) false statement to obtain property or credit
2-21 under Section 32.32, Penal Code;
2-22 (E) money laundering;
2-23 (F) credit card or debit card abuse under Section
2-24 32.31, Penal Code;
2-25 (G) fraudulent use or possession of identifying
2-26 information under Section 32.51, Penal Code;
2-27 (H) exploitation of a child, elderly individual,
2-28 or disabled individual under Section 32.53, Penal Code;
2-29 (I) Medicaid fraud under Section 35A.02, Penal
2-30 Code; or
2-31 (J) bigamy under Section 25.01, Penal Code,
2-32 except as provided by Subdivision (6);
2-33 (4) five years from the date of the commission of the
2-34 offense:
2-35 (A) theft or robbery;
2-36 (B) except as provided by Subdivision (5),
2-37 kidnapping or burglary;
2-38 (C) injury to an elderly or disabled individual
2-39 that is not punishable as a felony of the first degree under Section
2-40 22.04, Penal Code;
2-41 (D) abandoning or endangering a child; or
2-42 (E) insurance fraud;
2-43 (5) if the investigation of the offense shows that the
2-44 victim is younger than 17 years of age at the time the offense is
2-45 committed, 20 years from the 18th birthday of the victim of one of
2-46 the following offenses:
2-47 (A) sexual performance by a child under Section
2-48 43.25, Penal Code;
2-49 (B) aggravated kidnapping under Section
2-50 20.04(a)(4), Penal Code, if the defendant committed the offense
2-51 with the intent to violate or abuse the victim sexually; or
2-52 (C) burglary under Section 30.02, Penal Code, if
2-53 the offense is punishable under Subsection (d) of that section and
2-54 the defendant committed the offense with the intent to commit an
2-55 offense described by Subdivision (1)(B) or (D) of this article or
2-56 Paragraph (B) of this subdivision;
2-57 (6) ten years from the 18th birthday of the victim of
2-58 the offense:
2-59 (A) trafficking of persons under Section
2-60 20A.02(a)(5) or (6), Penal Code;
2-61 (B) injury to a child under Section 22.04, Penal
2-62 Code; or
2-63 (C) bigamy under Section 25.01, Penal Code, if
2-64 the investigation of the offense shows that the person, other than
2-65 the legal spouse of the defendant, whom the defendant marries or
2-66 purports to marry or with whom the defendant lives under the
2-67 appearance of being married is younger than 18 years of age at the
2-68 time the offense is committed; [~~or~~]
2-69 (7) two years from the date the offense was

3-1 discovered: sexual assault punishable as a state jail felony under
3-2 Section 22.011(f)(2), Penal Code; or
3-3 (8) three years from the date of the commission of the
3-4 offense: all other felonies.

3-5 SECTION 2. Sections 22.011(b) and (f), Penal Code, are
3-6 amended to read as follows:

3-7 (b) A sexual assault under Subsection (a)(1) is without the
3-8 consent of the other person if:

3-9 (1) the actor compels the other person to submit or
3-10 participate by the use of physical force, violence, or coercion;

3-11 (2) the actor compels the other person to submit or
3-12 participate by threatening to use force or violence against the
3-13 other person or to cause harm to the other person, and the other
3-14 person believes that the actor has the present ability to execute
3-15 the threat;

3-16 (3) the other person has not consented and the actor
3-17 knows the other person is unconscious or physically unable to
3-18 resist;

3-19 (4) the actor knows that as a result of mental disease
3-20 or defect the other person is at the time of the sexual assault
3-21 incapable either of appraising the nature of the act or of resisting
3-22 it;

3-23 (5) the other person has not consented and the actor
3-24 knows the other person is unaware that the sexual assault is
3-25 occurring;

3-26 (6) the actor has intentionally impaired the other
3-27 person's power to appraise or control the other person's conduct by
3-28 administering any substance without the other person's knowledge;

3-29 (7) the actor compels the other person to submit or
3-30 participate by threatening to use force or violence against any
3-31 person, and the other person believes that the actor has the ability
3-32 to execute the threat;

3-33 (8) the actor is a public servant who coerces the other
3-34 person to submit or participate;

3-35 (9) the actor is a mental health services provider or a
3-36 health care services provider who causes the other person, who is a
3-37 patient or former patient of the actor, to submit or participate by
3-38 exploiting the other person's emotional dependency on the actor;

3-39 (10) the actor is a clergyman who causes the other
3-40 person to submit or participate by exploiting the other person's
3-41 emotional dependency on the clergyman in the clergyman's
3-42 professional character as spiritual adviser; ~~or~~

3-43 (11) the actor is an employee of a facility where the
3-44 other person is a resident, unless the employee and resident are
3-45 formally or informally married to each other under Chapter 2,
3-46 Family Code; or

3-47 (12) the actor is a health care services provider who,
3-48 in the course of performing an assisted reproduction procedure on
3-49 the other person, uses human reproductive material from a donor
3-50 knowing that the other person has not expressly consented to the use
3-51 of material from that donor.

3-52 (f) An offense under this section is a felony of the second
3-53 degree, except that an offense under this section is:

3-54 (1) a felony of the first degree if the victim was a
3-55 person whom the actor was prohibited from marrying or purporting to
3-56 marry or with whom the actor was prohibited from living under the
3-57 appearance of being married under Section 25.01; or

3-58 (2) a state jail felony if the offense is committed
3-59 under Subsection (a)(1) and the actor has not received express
3-60 consent as described by Subsection (b)(12).

3-61 SECTION 3. Section 22.011(c), Penal Code, is amended by
3-62 adding Subdivisions (6) and (7) to read as follows:

3-63 (6) "Assisted reproduction" and "donor" have the
3-64 meanings assigned by Section 160.102, Family Code.

3-65 (7) "Human reproductive material" means:

3-66 (A) a human spermatozoon or ovum; or

3-67 (B) a human organism at any stage of development
3-68 from fertilized ovum to embryo.

3-69 SECTION 4. The changes in law made by this Act apply only to

4-1 an offense committed on or after the effective date of this Act. An
4-2 offense committed before the effective date of this Act is governed
4-3 by the law in effect when the offense was committed, and the former
4-4 law is continued in effect for that purpose. For purposes of this
4-5 section, an offense was committed before the effective date of this
4-6 Act if any element of the offense occurred before that date.
4-7 SECTION 5. This Act takes effect September 1, 2019.

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