

By: Whitmire

S.B. No. 827

Substitute the following for S.B. No. 827:

By: Keel

C.S.S.B. No. 827

A BILL TO BE ENTITLED

AN ACT

1
2 relating to creating offenses for abandoning or endangering an
3 elderly individual or disabled individual and for failing to
4 provide certain care for a child, elderly individual, or disabled
5 individual.

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

7 SECTION 1. Section 22.041, Penal Code, is amended to read as
8 follows:

9 Sec. 22.041. ABANDONING OR ENDANGERING A CHILD, ELDERLY
10 INDIVIDUAL, OR DISABLED INDIVIDUAL. (a) In this section:

11 (1) "Abandon" [~~,"abandon"~~] means to leave a child,
12 elderly individual, or disabled individual in any place without
13 providing reasonable and necessary care for the child, elderly
14 individual, or disabled individual under circumstances under which
15 no reasonable, similarly situated adult would leave an individual
16 or [a] child of that age and ability.

17 (2) "Elderly individual" and "disabled individual"
18 have the meanings assigned by Section 22.04(c).

19 (b) A person commits an offense if, having custody, care, or
20 control of a child younger than 15 years, an elderly individual, or
21 a disabled individual, the person [he] intentionally abandons the
22 child, elderly individual, or disabled individual in any place
23 under circumstances that expose the child, elderly individual, or
24 disabled individual to an unreasonable risk of harm.

1 (c) A person commits an offense if the person [~~he~~
2 intentionally, knowingly, or recklessly[, ~~or with criminal~~
3 ~~negligence~~], by act or omission, engages in conduct that places a
4 child younger than 15 years, an elderly individual, or a disabled
5 individual in imminent danger of death, bodily injury, or physical
6 or mental impairment.

7 (c-1) A person commits an offense if, having custody, care,
8 or control of a child younger than 15 years, an elderly individual,
9 or a disabled individual, the person intentionally or knowingly
10 fails to provide food, medical care, or shelter for the child,
11 elderly individual, or disabled individual.

12 (d) Except as provided by Subsection (e), an offense under
13 Subsection (b) is:

14 (1) a state jail felony if the actor abandoned the
15 child, elderly individual, or disabled individual with intent to
16 return for the child, elderly individual, or disabled individual;
17 or

18 (2) a felony of the third degree if the actor abandoned
19 the child, elderly individual, or disabled individual without
20 intent to return for the child, elderly individual, or disabled
21 individual.

22 (e) An offense under Subsection (b) is a felony of the
23 second degree if the actor abandons the child, elderly individual,
24 or disabled individual under circumstances that a reasonable person
25 would believe would place the child, elderly individual, or
26 disabled individual in imminent danger of death, bodily injury, or
27 physical or mental impairment.

1 (f) An offense under Subsection (c) is a state jail felony.

2 (f-1) An offense under Subsection (c-1) is a felony of the
3 second degree.

4 (g) It is a defense to prosecution under Subsection (c) that
5 the act or omission enables the child to practice for or participate
6 in an organized athletic event and that appropriate safety
7 equipment and procedures are employed in the event.

8 (h) It is an exception to the application of Subsection (b)
9 ~~[this section]~~ that the actor voluntarily delivered the child to a
10 designated emergency infant care provider under Section 262.302,
11 Family Code.

12 (i) It is a defense to prosecution under Subsection (c) or
13 (c-1) that the actor voluntarily delivered the child to a
14 designated emergency infant care provider under Section 262.302,
15 Family Code.

16 (j) It is a defense to prosecution under Subsection (c-1)
17 that the person is a health care facility licensed under a law other
18 than Chapter 241, Health and Safety Code, or a licensed health care
19 professional providing medical treatment at, or is an employee of,
20 a health care facility licensed under a law other than Chapter 241,
21 Health and Safety Code, and that the person's conduct is the result
22 of:

23 (1) a decision made under Subchapter B, Chapter 166,
24 Health and Safety Code, to withhold or withdraw life-sustaining
25 treatment from a qualified terminal or irreversible patient;

26 (2) a power of attorney executed in compliance with
27 Subchapter D, Chapter 166, Health and Safety Code, or under Chapter

1 XII, Probate Code;

2 (3) consent to medical treatment of a minor in
3 compliance with Chapter 32, Family Code;

4 (4) consent for emergency care received in compliance
5 with Chapter 773, Health and Safety Code;

6 (5) a hospital patient transfer made in compliance
7 with Subchapter B, Chapter 241, Health and Safety Code;

8 (6) a decision made by a patient's legal guardian who
9 has the authority to make a decision regarding the patient's
10 medical treatment;

11 (7) a reasonable decision consistent with:

12 (A) a physician's orders, care, treatment, or
13 individual service plan with respect to the child, elderly
14 individual, or disabled individual;

15 (B) the diagnosis or medical condition of the
16 child, elderly individual, or disabled individual;

17 (C) the scope and nature of a health care
18 provider's license or certification; or

19 (D) an individual contract for services with the
20 health care provider, entered into by the child, elderly
21 individual, disabled individual, or a legal guardian with authority
22 to make health care decisions for the child, elderly individual, or
23 disabled individual; or

24 (8) a decision to discharge a child, elderly
25 individual, or disabled individual from a health care facility
26 licensed under a law other than Chapter 241, Health and Safety Code,
27 based on the child's, elderly individual's, or disabled

1 individual's inability to pay for care or treatment provided by the
2 health care facility.

3 SECTION 2. (a) This Act takes effect September 1, 2003.

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