

By: Whitmire

S.B. No. 827

A BILL TO BE ENTITLED

AN ACT

relating to amending Section 22.041, Penal Code, to make it a criminal offense to abandon or endanger an elderly individual or a disabled individual and to make it a criminal offense to fail to provide adequate food, medical care, or shelter to a child, elderly individual, or disabled individual; providing a criminal penalty.

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

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

Sec. 22.041. ABANDONING OR ENDANGERING A CHILD, AN ELDERLY INDIVIDUAL, OR A DISABLED INDIVIDUAL. (a)(1) In this section, "abandon" means to leave a child, an elderly individual, or a disabled individual in any place without providing reasonable and necessary care for that individual [~~the child~~], under circumstances under which no reasonable, similarly situated adult would leave an individual [~~a child~~] of that age and ability.

(2) In this section, "elderly individual" has the meaning assigned by Section 22.04(c)(2) of this code.

(3) In this section, "disabled individual" has the meaning assigned by Section 22.04(c)(3) of this code.

(b) A person commits an offense if, having custody, care, or control of a child younger than 15 years, an elderly individual, or a disabled individual, he intentionally abandons that individual [~~the child~~] in any place under circumstances that expose that

1 individual [~~the child~~] to an unreasonable risk of harm.

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

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

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

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

17 (2) a felony of the third degree if the actor abandoned
18 the child, the elderly individual, or the disabled individual
19 without intent to return for that individual [~~the child~~].

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

26 (g) [~~(f)~~] An offense under Subsection (c) is a state jail
27 felony.

1 (h) An offense under Subsection (d) is a felony of the
2 second degree.

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

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

11 SECTION 2. (a) The change in law made by this Act applies
12 only to an offense committed on or after the effective date of this
13 Act. For purposes of this section, an offense is committed before
14 the effective date of this Act if any element of the offense occurs
15 before the effective date.

16 (b) An offense committed before the effective date of this
17 Act is covered by the law in effect when the offense was committed,
18 and the former law is continued in effect for that purpose.

19 SECTION 3. EFFECTIVE DATE. This Act takes effect on
20 September 1, 2003.