

1-1 By: Whitmire S.B. No. 827
1-2 (In the Senate - Filed March 3, 2003; March 10, 2003, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 March 31, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 4, Nays 0; March 31, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 827 By: Whitmire

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to creating offenses for abandoning or endangering an
1-11 elderly individual or disabled individual and for failing to
1-12 provide certain care for a child, elderly individual, or disabled
1-13 individual.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Section 22.041, Penal Code, is amended to read as
1-16 follows:

1-17 Sec. 22.041. ABANDONING OR ENDANGERING A CHILD, ELDERLY
1-18 INDIVIDUAL, OR DISABLED INDIVIDUAL. (a) In this section:

1-19 (1) "Abandon" [~~,"abandon"~~] means to leave a child,
1-20 elderly individual, or disabled individual in any place without
1-21 providing reasonable and necessary care for the child, elderly
1-22 individual, or disabled individual under circumstances under which
1-23 no reasonable, similarly situated adult would leave an individual
1-24 or [a] child of that age and ability.

1-25 (2) "Elderly individual" and "disabled individual"
1-26 have the meanings assigned by Section 22.04(c).

1-27 (b) A person commits an offense if, having custody, care, or
1-28 control of a child younger than 15 years, an elderly individual, or
1-29 a disabled individual, the person [he] intentionally abandons the
1-30 child, elderly individual, or disabled individual in any place
1-31 under circumstances that expose the child, elderly individual, or
1-32 disabled individual to an unreasonable risk of harm.

1-33 (c) A person commits an offense if the person [he]
1-34 intentionally, knowingly, recklessly, or with criminal negligence,
1-35 by act or omission, engages in conduct that places a child younger
1-36 than 15 years, an elderly individual, or a disabled individual in
1-37 imminent danger of death, bodily injury, or physical or mental
1-38 impairment.

1-39 (c-1) A person commits an offense if, having custody, care,
1-40 or control of a child younger than 15 years, an elderly individual,
1-41 or a disabled individual, the person intentionally or knowingly
1-42 fails to provide food, medical care, or shelter for the child,
1-43 elderly individual, or disabled individual.

1-44 (d) Except as provided by Subsection (e), an offense under
1-45 Subsection (b) is:

1-46 (1) a state jail felony if the actor abandoned the
1-47 child, elderly individual, or disabled individual with intent to
1-48 return for the child, elderly individual, or disabled individual;
1-49 or

1-50 (2) a felony of the third degree if the actor abandoned
1-51 the child, elderly individual, or disabled individual without
1-52 intent to return for the child, elderly individual, or disabled
1-53 individual.

1-54 (e) An offense under Subsection (b) is a felony of the
1-55 second degree if the actor abandons the child, elderly individual,
1-56 or disabled individual under circumstances that a reasonable person
1-57 would believe would place the child, elderly individual, or
1-58 disabled individual in imminent danger of death, bodily injury, or
1-59 physical or mental impairment.

1-60 (f) An offense under Subsection (c) is a state jail felony.

1-61 (f-1) An offense under Subsection (c-1) is a felony of the
1-62 second degree.

1-63 (g) It is a defense to prosecution under Subsection (c) that

the act or omission enables the child to practice for or participate in an organized athletic event and that appropriate safety equipment and procedures are employed in the event.

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

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

(j) It is an affirmative defense to prosecution under this section that the act or omission was based on treatment in accordance with the tenets and practices of a recognized religious method of healing that has a generally accepted record of efficacy.

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

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

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