

BILL ANALYSIS

Senate Research Center

H.B. 375
By: Smith et al. (Zaffirini)
Criminal Justice
4/16/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The prevalence of sexual abuse of persons with disabilities is deeply problematic. According to the federal Bureau of Justice Statistics, the rate of sexual assault against persons with disabilities is three and a half times higher compared to persons without disabilities and more than seven times higher against persons with intellectual disabilities. Current protections from continuous sexual assault in place for children also are appropriate for adults who are unable to consent. The offense of continuous sexual abuse of a child is a first-degree felony punishable by imprisonment for life or for a minimum of 25 years or maximum of 99 years.

H.B. 375 would establish the same criminal penalties for continuous sexual abuse of a child for continuous sexual abuse of a person with a disability. The bill would help protect persons with disabilities who are subject to sexual exploitation at higher rates than persons without disabilities.

H.B. 375 amends current law relating to the prosecution of the offense of continuous sexual abuse of young child or disabled individual and creates a criminal offense.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

ARTICLE I. OFFENSE

SECTION 1.01. Amends the heading to Section 21.02, Penal Code, to read as follows:

Sec. 21.02. CONTINUOUS SEXUAL ABUSE OF YOUNG CHILD OR DISABLED INDIVIDUAL.

SECTION 1.02. Amends Sections 21.02(a), (b), (c), and (g), Penal Code, as follows:

- (a) Defines "disabled individual." Makes nonsubstantive changes.
- (b) Provides that a person commits an offense if:
 - (1) makes no changes to this subdivision; and
 - (2) at the time of the commission of each of the acts of sexual abuse, the actor is 17 years of age or older and the victim is:
 - (A) a child younger than 14 years of age, regardless of whether the actor knows the age of the victim at the time of the offense; or
 - (B) a disabled individual.
- (c) Redefines "act of sexual abuse."

(g) Provides that it is an affirmative defense to prosecution under this section, with respect to a prosecution under this section involving only one or more victims described by Subsection (b)(2)(A), that the actor meets certain requirements.

ARTICLE II. CONFORMING AMENDMENTS

SECTION 2.01. Amends Section 16.0045(a), Civil Practice and Remedies Code, to make a conforming change.

SECTION 2.02. Amends Section 33.013(b), Civil Practice and Remedies Code, to make a conforming change.

SECTION 2.03. Amends Section 41.008(c), Civil Practice and Remedies Code, to make a conforming change.

SECTION 2.04. Amends Section 61.0021(a), Civil Practice and Remedies Code, to make a conforming change.

SECTION 2.05. Amends Section 125.0015(a), Civil Practice and Remedies Code, to make a conforming change.

SECTION 2.06. Amends Article 2.32(b), Code of Criminal Procedure, to make a conforming change.

SECTION 2.07. Amends Article 12.01, Code of Criminal Procedure, to make a conforming change.

SECTION 2.08. Amends Article 17.03(b), Code of Criminal Procedure, to make a conforming change.

SECTION 2.09. Amends Article 17.032(a), Code of Criminal Procedure, to make a conforming change.

SECTION 2.10. Amends Article 18.021(a), Code of Criminal Procedure, to make a conforming change.

SECTION 2.11. Amends Section 1, Article 38.071, Code of Criminal Procedure, to make a conforming change.

SECTION 2.12. Amends Section 2(a), Article 38.37, Code of Criminal Procedure, to make a conforming change.

SECTION 2.13. Amends Articles 62.001(5) and (6), Code of Criminal Procedure, to make conforming changes.

SECTION 2.14. Amends Article 66.102(h), Code of Criminal Procedure, to make a conforming change.

SECTION 2.15. Amends Section 25.0341(a), Education Code, to make a conforming change.

SECTION 2.16. Amends Section 37.007(a), Education Code, to make a conforming change.

SECTION 2.17. Amends Section 161.001(b), Family Code, to make a conforming change.

SECTION 2.18. Amends Section 261.001(1), Family Code, to make a conforming change.

SECTION 2.19. Amends Section 262.2015(b), Family Code, to make a conforming change.

SECTION 2.20. Amends Section 499.027(b), Government Code, to make a conforming change.

SECTION 2.21. Amends Section 824.009(a), Government Code, to make a conforming change.

SECTION 2.22. Amends Section 250.006(a), Health and Safety Code, to make a conforming change.

SECTION 2.23. Amends Section 164.0595(a), Occupations Code, to make a conforming change.

SECTION 2.24. Amends Section 164.102(b), Occupations Code, to make a conforming change.

SECTION 2.25. Amends Section 301.4535(a), Occupations Code, to make a conforming change.

SECTION 2.26. Amends Section 20A.02(a), Penal Code, to make a conforming change.

SECTION 2.27. Amends Section 71.02(a), Penal Code, to make a conforming change.

SECTION 2.28. Amends Section 92.0161(c), Property Code, to make a conforming change.

ARTICLE III. TRANSITION AND EFFECTIVE DATE

SECTION 3.01. Makes application of this Act prospective.

SECTION 3.02. Effective date: September 1, 2021.