

CHAPTER 573

H.B. No. 161

AN ACT

relating to the offense of aggravated sexual assault.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 22.021, Penal Code, is amended to read as follows:

Sec. 22.021. AGGRAVATED SEXUAL ASSAULT. (a) A person commits an offense ~~[if the person commits sexual assault as defined in Section 22.011 of this code and]:~~

(1) *if the person:*

(A) *intentionally or knowingly:*

(i) *causes the penetration of the anus or female sexual organ of another person by any means, without that person's consent;*

(ii) *causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or*

(iii) *causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or*

(B) *intentionally or knowingly:*

(i) *causes the penetration of the anus or female sexual organ of a child by any means;*

(ii) *causes the penetration of the mouth of a child by the sexual organ of the actor; or*

(iii) *causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; and*

(2) *if the person:*

(A) ~~[(1) the person]~~ causes serious bodily injury or attempts to cause the death of the victim or another person in the course of the same criminal episode;

(B) ~~[(2)]~~ by acts or words the person places the victim in fear that death, serious bodily injury, or kidnapping will be imminently inflicted on any person;

(C) ~~[(3)]~~ by acts or words occurring in the presence of the victim the person threatens to cause the death, serious bodily injury, or kidnapping of any person;

(D) ~~[(4)]~~ the person uses or exhibits a deadly weapon in the course of the same criminal episode; or

(E) [(5)] the victim is younger than 14 years of age.

(b) *In this section, "child" means a person younger than 17 years of age who is not the spouse of the actor.*

(c) *An aggravated sexual assault under this section is without the consent of the other person if the aggravated sexual assault occurs under the same circumstances listed in Section 22.011(b) of this code.*

(d) The defense provided by Section 22.011(d)(1) of this code and the affirmative defense provided by Section 22.011(e) of this code do not apply to this section. The defense provided by Section 22.011(d)(2) of this section does apply to this section.

(e) [(e)] An offense under this section is a felony of the first degree.

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

(b) 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 this purpose.

SECTION 3. This Act takes effect September 1, 1987.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 22, 1987, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 161 on May 26, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 22, 1987, by a viva-voce vote.

Approved June 18, 1987.

Effective Sept. 1, 1987.