

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 827  
By: Whitmire  
Criminal Justice  
3/27/2003  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Under current law, it is not a criminal offense for a person to abandon or endanger an elderly individual or a disabled individual, nor is it a criminal offense if a person who has custody, care or control of a child, an elderly individual, or disabled individual fails to provide adequate food, medical care, or shelter to that individual. C.S.S.B. 827 amends the Penal Code to make it a criminal offense if a person abandons or endangers a child, an elderly individual, or a disabled individual.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 22.041, Penal Code, as follows:

Sec. 22.041. New heading: ABANDONING OR ENDANGERING A CHILD, ELDERLY INDIVIDUAL, OR DISABLED INDIVIDUAL. (a) Redefines “abandon” and defines “elderly individual” and “disabled individual.”

(b) Provides that a person commits an offense if, having custody, care or control of child younger than 15 years, an elderly individual or a disabled individual, the person intentionally abandons the child, elderly individual, or disabled individual in any place under circumstances that expose the child, elderly individual, or disabled individual to an unreasonable risk of harm.

(c) Provides that a person commits an offense if the person intentionally, knowingly, recklessly, or with criminal negligence, by act or omission, engages in conduct that places a child younger than 15 years, an elderly individual, or a disabled individual in imminent danger of death, bodily injury, or physical or mental impairment. Makes a nonsubstantive change.

(c-1) Provides that 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, the person intentionally or knowingly fails to provide food, medical care, or shelter for the child, elderly individual, or disabled individual.

(d) Makes conforming changes.

(e) Makes conforming changes.

(f-1) Provides that an offense under Subsection (c-1) is a second degree felony.

(h) Provides that it is an exception to the application of Subsection (b), rather than this section, that the actor voluntarily delivered the child to a designated emergency infant care provider under Section 262.302 (Child’s Attendance at

Hearing), Family Code.

(i) Provides that it is 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) Provides that 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. Effective date: September 1, 2003.

Makes application of this Act prospective.

### **SUMMARY OF COMMITTEE CHANGES**

SECTION 1. Differs from original bill in proposed Section 22.041 by adding the phrase “for the child, elderly, individual, or disabled individual” in place of the original proposed text “the individual.” Replaces the text “an individual” with the phrase “an individual or child.”

Differs from the original bill in Section 22.041(b) by replacing “he” with “the person” and adding the phrase “the child, elderly individual, or disabled individual.”

Differs from the original bill in Section 22.041(c) by making a nonsubstantive change.

Differs from the original bill in Section 22.041 by creating a new Subsection (c-1) from existing text, adding the phrase “the child, the elderly individual, or disabled individual” and making nonsubstantive changes.

Differs from the original bill in Section 22.041(d) (1) and (2) by adding the phrase “the child, elderly individual, or disabled individual.”

Differs from original bill in Section 22.041(e) by adding the phrase “the child, elderly individual, or disabled individual.”

Differs from the original bill by creating a new Subsection (f-1) in Section 22.041.

Differs from the original bill in Section 22.041(h) by replacing “this section” with “Subsection b.”

Differs from the original bill by creating a new Subsections (i) and (j) in Section 22.041.

Reletters Subsections (d), (e), (f), (g), (h), (i), and (j) as (c-1), (d), (e), (f), (f-1), and (g).

SECTION 2. Combines SECTIONS 2 and 3 of the original into SECTION 2 in the substitute.