School
Rio Grande City High School

Senate Committee
N/A

Senate Author
Luis Mijares

House Committee
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Elderly & Disabled Abandonment Act

HB 42

Bill Analysis

BACKGROUND & PURPOSE

Currently, statute only provides for the protection of children for abandonment and endangerment offenses. There is no statute to protect vulnerable populations such as older adults and individuals with disabilities. Adding in these groups will hold those who choose to take advantage of these vulnerable individuals accountable.

This bill seeks to address this issue by adding elderly and disabled individuals to the class of persons protected by law from such abandonment and endangerment. Currently, only children are protected under that law.

This bill amends current law relating to the criminal offense of abandoning or endangering a child, elderly individual, or 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 "child," "elderly individual," and "disabled individual."

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

(c)-(e) Makes conforming changes to these subsections.

(f) Makes no changes to this subsection.

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(g) Makes a conforming change to this subsection.

(h) Provides that it is an exception to the application of this section for abandoning or endangering a child that the actor voluntarily delivered the child to a designated emergency infant care provider under Section 262.302 (Accepting Possession of Certain Abandoned Children), Family Code

SECTION 2. Amends Article 12.01, Code of Criminal Procedure, as follows:

Art. 12.01. FELONIES. Authorizes felony indictments, except as provided in Article 12.03 (Aggravated Offenses, Attempt, Conspiracy, Solicitation, Organized Criminal Activity), to be presented within certain limits, and not afterward, including five years from the date of the commission of the offense of abandoning or endangering a child, elderly individual, or disabled individual.

SECTION 3. Amends Section 201.062(a), Estates Code, as follows:

(a) Authorizes a probate court to enter an order declaring that the parent of a child under 18 years of age is prohibited from inheriting from or through the child under the laws of descent and distribution if the court finds by clear and convincing evidence that the parent has been convicted or has been placed on community supervision, including deferred adjudication community supervision, for being criminally responsible for the death or serious injury of a child under certain sections of the Penal Code or adjudicated under Title 3 (Juvenile Justice Code), Family Code, for conduct that caused the death or serious injury of a child and that would constitute a violation of certain sections of the Penal Code, including Section 22.041 (abandoning or endangering a child, elderly individual, or disabled individual).

SECTION 4. Amends Section 1104.353(b), Estates Code, to provide that it is presumed to be not in the best interests of a ward or incapacitated person to appoint as guardian of the ward or incapacitated person a person who has been finally convicted of certain offenses, including abandoning or endangering a child, elderly individual, or disabled individual.

SECTION 5. Amends Section 161.001(b), Family Code, as follows:

(b) Authorizes the court to order termination of the parent-child relationship if the court finds by clear and convincing evidence:

(1) that the parent has:

(A)-(K) makes no changes to these paragraphs;

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(L) been convicted or has been placed on community supervision, including deferred adjudication community supervision, for being criminally responsible for the death or serious injury of a child under certain sections of the Penal Code, or under a law of another jurisdiction that contains elements that are substantially similar to the elements of an offense under one of the following Penal Code sections, or adjudicated under Title 3 for conduct that caused the death or serious injury of a child and that would constitute a violation of certain Penal Code sections, including Section 22.041 (abandoning or endangering a child, elderly individual, or disabled individual); or

(M)-(U) makes no changes to these paragraphs; and

(2) makes no changes to this subdivision.

SECTION 6. Amends Section 262.2015(b), Family Code, to authorize the court to find under Subsection (a) (relating to authorizing the court to waive certain requirements if the court finds that the parent has subjected the child to aggravated circumstances) that a parent has subjected the child to aggravated circumstances if the parent has engaged in conduct against the child or another child of the parent that would constitute an offense under certain provisions of the Penal Code, including Section 22.041 (abandoning or endangering a child, elderly individual, or disabled individual).

SECTION 7. Amends Section 250.006(a), Health and Safety Code, to prohibit a person for whom the facility or the individual employer is entitled to obtain criminal history record information from being employed in a facility or by an individual employer if the person has been convicted of certain offenses, including an offense under Section 22.041, Penal Code (abandoning or endangering a child, elderly individual, or disabled individual).

SECTION 8. Amends Section 301.4535(a), Occupations Code, to require the Texas Board of Nursing to suspend a nurse's license or refuse to issue a license to an applicant on proof that the nurse or applicant has been initially convicted of certain offenses, including intentionally, knowingly, or recklessly abandoning or endangering a child, elderly individual, or disabled individual under Section 22.041, Penal Code.

SECTION 9. Makes application of this Act prospective.

EFFECTIVE DATE
January 1, 2027.