

Chapter 361

H.B. No. 3019

1 AN ACT
2 relating to the prosecution for the offense of injury to a child,
3 elderly individual, or disabled individual.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Sections 22.04(a-1) and (i), Penal Code, are
6 amended to read as follows:

7 (a-1) A person commits an offense if the person is an owner,
8 operator, or employee of a group home, nursing facility, assisted
9 living facility, boarding home facility, intermediate care
10 facility for persons with an intellectual or developmental
11 disability [~~mental retardation~~], or other institutional care
12 facility and the person intentionally, knowingly, recklessly, or
13 with criminal negligence by omission causes to a child, elderly
14 individual, or disabled individual who is a resident of that group
15 home or facility:

- 16 (1) serious bodily injury;
17 (2) serious mental deficiency, impairment, or injury;
18 or
19 (3) bodily injury.

20 (i) It is an affirmative defense to prosecution under
21 Subsection (b)(2) that before the offense the actor:

- 22 (1) notified in person the child, elderly individual,
23 or disabled individual that the actor [~~he~~] would no longer provide
24 any of the care described by Subsection (d)+ and

1 ~~[(2)]~~ notified in writing the parents or a person,
2 other than the actor, ~~[himself]~~ acting in loco parentis to the
3 child, elderly individual, or disabled individual that the actor
4 ~~[he]~~ would no longer provide any of the care described by Subsection
5 (d); or

6 (2) ~~[(3)]~~ notified in writing the Department of Family
7 and Protective ~~[and Regulatory]~~ Services that the actor ~~[he]~~ would
8 no longer provide any of the care described by ~~[set forth in]~~
9 Subsection (d).

10 SECTION 2. Section 22.04(c)(3), Penal Code, is amended to
11 read as follows:

12 (3) "Disabled individual" means a person:

13 (A) with one or more of the following:

14 (i) autism spectrum disorder, as defined by
15 Section 1355.001, Insurance Code;

16 (ii) developmental disability, as defined
17 by Section 112.042, Human Resources Code;

18 (iii) intellectual disability, as defined
19 by Section 591.003, Health and Safety Code;

20 (iv) severe emotional disturbance, as
21 defined by Section 261.001, Family Code; ~~[or]~~

22 (v) traumatic brain injury, as defined by
23 Section 92.001, Health and Safety Code; or

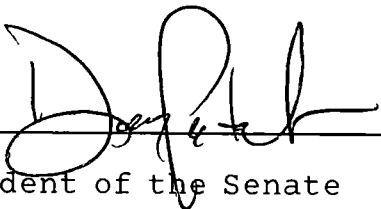
24 (vi) mental illness, as defined by Section
25 571.003, Health and Safety Code; or

26 (B) who otherwise by reason of age or physical or
27 mental disease, defect, or injury is substantially unable to

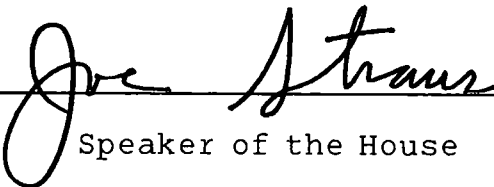
1 protect the person's self from harm or to provide food, shelter, or
2 medical care for the person's self.

3 SECTION 3. The change in law made by this Act applies only
4 to an offense committed on or after the effective date of this Act.
5 An offense committed before the effective date of this Act is
6 governed by the law in effect on the date the offense was committed,
7 and the former law is continued in effect for that purpose. For
8 purposes of this section, an offense was committed before the
9 effective date of this Act if any element of the offense occurred
10 before that date.

11 SECTION 4. This Act takes effect September 1, 2017.

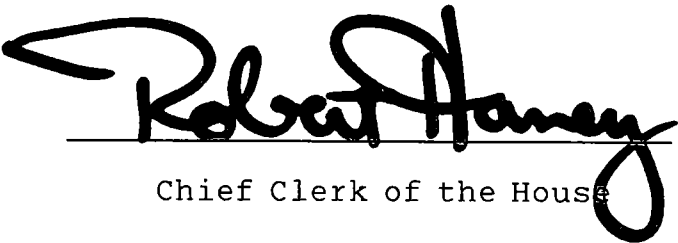


President of the Senate



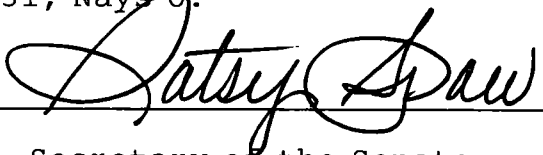
Speaker of the House

I certify that H.B. No. 3019 was passed by the House on May 6, 2017, by the following vote: Yeas 144, Nays 0, 2 present, not voting.



Chief Clerk of the House

I certify that H.B. No. 3019 was passed by the Senate on May 22, 2017, by the following vote: Yeas 31, Nays 0.



Secretary of the Senate


APPROVED: 5 - 31 - 2017

Date



Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
11:00 AM O'CLOCK

JUN 01 2017


Secretary of State

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 10, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3019 by Burkett (Relating to the prosecution for the offense of injury to a child, elderly individual, or disabled individual.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code as it relates to the offense of injury to a child, elderly individual, or disabled individual. Under the provisions of the bill, an owner, operator, or employee of a boarding home would be eligible for punishment of prohibited behavior or criminal negligence as it relates to the offense of injury to a child, elderly individual, or disabled individual. The bill would also incorporate individuals with a mental illness into the definition of disabled individuals.

The Office of Court Administration and the Texas Department of Criminal do not anticipate a significant fiscal impact.

This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demands for state correctional resources. The bill would take effect on September 1, 2017 and apply only to an offense committed on or after the effective date of the Act.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 696
Department of Criminal Justice

LBB Staff: UP, KJo, ZB, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 15, 2017

TO: Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3019 by Burkett (Relating to the prosecution for the offense of injury to a child, elderly individual, or disabled individual.), **As Introduced**

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Department of Criminal Justice

LBB Staff: UP, KJo, LM

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

May 17, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3019 by Burkett (Relating to the prosecution for the offense of injury to a child, elderly individual, or disabled individual.), **As Engrossed**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code as it relates to the offense of injury to a child, elderly individual, or disabled individual. Under the provisions of the bill, an owner, operator, or employee of a boarding home would be eligible for punishment of prohibited behavior or criminal negligence as it relates to the offense of injury to a child, elderly individual, or disabled individual. The bill would also incorporate individuals with a mental illness into the definition of disabled individuals. The punishment levels for the offense of injury to a child, elderly individual, or disabled individual vary depending on the specific circumstances of the offense.

A first degree felony is punishable by confinement in prison for life or a term from 5 to 99 years; a second degree felony from 2 to 20 years; a third degree felony from 2 to 10 years; and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony offenses are also subject to an optional fine not to exceed \$10,000.

Expanding the list locations where a criminal penalty can be applied is expected to result in an increase in the demand for the correctional resources of the counties or of the State due to a potential increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. In fiscal year 2016, 3,248 individuals were arrested, 735 were placed under felony community supervision, and 783 were admitted into state correctional institutions for the offense of injury to a child, elderly individual, or disabled individual under existing statute. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Source Agencies:

LBB Staff: UP, KJo, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

April 15, 2017

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FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3019 by Burkett (Relating to the prosecution for the offense of injury to a child, elderly individual, or disabled individual.), **As Introduced**

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LBB Staff: UP, KJo, LM