

- SUBJECT:** Creating offense for continuous sexual abuse of disabled individual
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 8 ayes — Collier, K. Bell, Cason, Cook, Hinojosa, A. Johnson, Murr, Vasut
- 1 nay — Crockett
- WITNESSES:** For — Eric Carcerano, Chambers County District Attorney’s Office; (*Registered, but did not testify:* M. Paige Williams, for Dallas County Criminal District Attorney John Creuzot; George Craig, Houston Police Department; John Hubert, Kleberg and Kenedy Counties District Attorneys Office; Katherine Strandberg, Texas Association Against Sexual Assault; John Chancellor, Texas Police Chiefs Association; Thomas Parkinson)
- Against — (*Registered, but did not testify:* Shea Place, Texas Criminal Defense Lawyers Association)
- BACKGROUND:** Penal Code sec. 21.02 establishes the offense of continuous sexual abuse of a child or children. The offense must involve committing two or more acts of sexual abuse, as defined in the statute, against one or more victims, during a period of 30 days or more.
- 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.
- DIGEST:** HB 375 would expand the criminal offense of continuous sexual abuse of a child to include continuous sexual abuse of a disabled individual. Disabled individuals would be defined as individuals who because of age or physical or mental disease, defect, or injury were substantially unable to protect themselves from harm or to provide food, shelter, or medical care for themselves, or who had one or more of the following:

- developmental disability, as defined in Human Resources Code sec. 112.042;
- intellectual disability, as defined in Health and Safety Code sec. 591.003; or
- traumatic brain injury, as defined in Health and Safety Code sec. 92.001.

The bill would amend relevant statutes that refer to the continuous sexual abuse of a child to include individuals with a disability. These codes include the Civil Practice and Remedies Code, the Code of Criminal Procedure, the Education Code, the Family Code, the Government Code, the Health and Safety Code, the Occupations Code, the Property Code, and the portion of the Penal Code relating to human trafficking.

The bill would take effect September 1, 2021, and would apply to offenses committed on or after that date.

**SUPPORTERS
SAY:**

HB 375 would help protect individuals who are disabled and cannot give consent for sexual encounters by expanding the existing criminal offense for continuous sexual abuse of a child to include continuous sexual abuse of a disabled individual.

The current offense is designed to address ongoing, serious sexual abuse of the most vulnerable individuals, and HB 375 would be consistent with that. The disabled individuals who would be covered by the bill are unable to consent and often unable to protect themselves or come forward when abuse happens, and they deserve the protection that HB 375 would afford. The bill would ensure that Texas could address situations like one in Arizona in 2018 in which an incapacitated woman living in a nursing home gave birth after being sexually assaulted.

Like the current law for continuous sexual abuse of children, this bill would require the offense to involve multiple acts over a certain period and would be used in appropriate situations.

The definition of disabled individual is narrowly drawn to apply to those

who are disabled and cannot give consent.

CRITICS
SAY:

The Legislature should be cautious about expanding the offense of continuous sexual abuse of a child. As this offense is broadened, there could be pressure to expand it to other groups or to charge individuals with it in cases that would be more appropriately charged with other felony offenses.

OTHER
CRITICS
SAY:

The language in the bill should be drawn more narrowly so that it would be clear that it could not be interpreted broadly enough to apply to consensual situations.