

## **BILL ANALYSIS**

Senate Research Center  
87R1107 MCF-D

S.B. 312  
By: Huffman  
Jurisprudence  
3/18/2021  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

During Summer of 2020, law enforcement systems across the country were under increased scrutiny by lawmakers and the public alike. This scrutiny led to a widespread investigation of complaints made against law enforcement officers and revitalized the discussion about sexual contact between law enforcement officers and detainees.

As demonstrated by previous legislative action in Texas related to this subject matter, there is an explicit power dynamic between a law enforcement officer and a detainee that prevents either party from obtaining consent. This dynamic, while not equal, is similar to the relationship between a teacher and student, and under current statute, a teacher having sexual contact with a student carries a higher degree of offense.

By increasing the level of offense from a state jail felony to a second degree felony, the offense of a law enforcement officer having sexual contact with a detainee would then be punishable by two to 20 years in prison and up to a \$10,000 fine. This change also aligns statute with other instances of sexual assault felony punishment, as well as the section of the Penal Code that governs the same crime committed by an educator.

Additionally, an increase in the severity of offense could further deter this crime from ever being committed and solidify Texas' commitment to fighting sexual assault in all arenas.

As proposed, S.B. 312 amends current law relating to the punishment for the criminal offense of improper sexual activity with a person in custody, and increases a criminal penalty.

### **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 39.04(b), Penal Code, as follows:

(b) Provides that an offense under Subsection (a)(2) (relating to improper sexual activity with a person in custody or under supervision) is a felony of the second degree. Deletes existing text providing that an offense under Subsection (a)(2) is a state jail felony, except that an offense under Subsection (a)(2) is a felony of the second degree if the offense is committed against an individual in the custody of the Texas Juvenile Justice Department or placed in a juvenile facility, or a juvenile offender detained in or committed to a correctional facility.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2021.