

BILL ANALYSIS

Senate Research Center
87R7188 AJZ-D

S.B. 945
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the most significant gap in our Penal Code's sexual assault statute is that of professional deception. Healthcare professionals who commit sexual assault under the guise of "treatment" cannot currently be charged with rape in Texas without prosecution proving emotional dependency between the perpetrator and the victim. Likewise, perpetrators who pose as healthcare professionals and use that purported position of power to exploit others similarly exploit this loophole.

The following scenarios are based on real cases of deception and abuse.

Example 1: An individual impersonating a licensed doctor performs a pelvic exam on someone who believes they are receiving medical care.

Example 2: A sports medicine physician unnecessarily penetrates a student in his care as part of her "treatment" for unrelated injuries.

Example 3: A mental health care provider, licensed or otherwise, has sex with a patient for "therapeutic" reasons.

In these examples, the victim lacks informed consent regarding the sexual contact. Many young and vulnerable people do not have the requisite knowledge or ability to confront a perpetrator abusing them under the guise of mental or physical healthcare "treatment." This kind of abuse contact should be banned outright, as it is in many other states.

The legislature should take steps to add professional deception to the sexual assault statute to better protect Texans. Addressing deception specifically amongst healthcare professionals, or people claiming to be professionals, will allow prosecutors to charge these cases as sexual assaults. Under current law, prosecutors are often limited to charging these cases as fraud, a charge which does not reflect the severity of the crime nor its impact on the victim.

As proposed, S.B. 945 amends current law relating to the prosecution of the criminal offense of sexual assault.

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 22.011(b), Penal Code, as follows:

(b) Provides that a sexual assault under Subsection (a)(1) (relating to providing that the offense of sexual assault is committed if a person intentionally or knowingly causes certain actions against another person without that person's consent) is without the consent of the other person in certain circumstances, including if the actor is a mental health services provider, a health care services provider, or a person who purports to be a health care services provider and the actor creates or confirms a false impression of law

or fact that the actor knows or has reason to believe is false, and the other person submits or participates on the basis of the false impression. Makes nonsubstantive changes.

SECTION 2. Amends Section 22.011(c)(3), Penal Code, to redefine "health care services provider."

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2021.