

BILL ANALYSIS

Senate Research Center

H.B. 55
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Criminal Justice
5/10/2023
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, there is no penalty enhancement for the offense of indecent assault, even in the case of multiple, similar attacks on a variety of individuals or assaults committed within a fiduciary relationship. In one case, a physician was accused of assaulting more than 20 women, but because of the nature of the offenses and the penalties in statute, the offender was only charged with a misdemeanor.

The bill enhances indecent assault penalties for repeat offenders and offenders who commit the offense during the course of providing certain health care services.

Author's Summary Analysis

H.B. 55 amends the Penal Code to enhance the penalty for indecent assault from a Class A misdemeanor to a state jail felony if it is shown on the trial of the offense that:

- the defendant has been previously convicted of the offense; or
- the defendant is a health care services provider or a mental health services provider and committed the offense during the course of providing a treatment or service to the victim and beyond the scope of generally accepted practices for the treatment or service.

If the defendant has been previously convicted of the offense involving such conduct as a health care services provider or mental health services provider, the penalty is enhanced to a third degree felony.

H.B. 55 amends current law relating to the punishment for the criminal offense of indecent assault 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 22.012, Penal Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Provides that an offense under Section 22.012 (Indecent Assault) is a Class A misdemeanor, except that the offense is:

(1) a state jail felony if it is shown on the trial of the offense that:

(A) the defendant has been previously convicted of an offense under this section, other than an offense punishable under Paragraph (B);

(B) the defendant is a health care services provider or a mental health services provider and the act is:

(i) committed during the course of providing a treatment or service to the victim; and

(ii) beyond the normal scope of generally accepted practices for the treatment or service; or

(C) the defendant provided an alcoholic beverage to the other person with the intent to commit the act and the other person was an employee, intern, or was otherwise supervised in a professional capacity by the defendant; or

(2) a felony of the third degree if it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this section that is punishable under Subdivision (1)(B).

(d) Defines "health care services provider" and "mental health services provider."

SECTION 2. Makes the application of the changes in law made by this Act prospective.

SECTION 3. Effective date: September 1, 2023.