

## **BILL ANALYSIS**

Senate Research Center  
88R331 ADM-F

H.B. 165  
By: Johnson, Ann et al. (Whitmire)  
Criminal Justice  
5/4/2023  
Engrossed

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

Due to the lack of a definition for mass shooting in state law, courts are unable to assess the appropriate punishments for mass shooting crimes where people are hurt or injured, but not killed. Incidents where four or more people are targeted or injured that do not result in the death of victims are charged as assaults with a deadly weapon, which is a second degree felony and carries a sentence range of two to 20 years. In addition, these offenses are ineligible to be served consecutively when they arise from the same criminal episode.

H.B. 165 seeks to address these issues by defining a mass shooting, increasing the penalty for this conduct to a first degree felony, and allowing the stacking of sentences upon conviction.

H.B. 165 amends current law relating to the prosecution of and punishment for an aggravated assault occurring as part of a mass shooting 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 1.07(a), Penal Code, by adding Subdivision (30-a) to define "mass shooting."

SECTION 2. Amends Section 3.03, Penal Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Creates an exception under Subsection (c) and makes a nonsubstantive change.

(c) Provides that the sentences, if in a single criminal action the accused is found guilty of more than one offense under Section 22.02 (Aggravated Assault) that arises out of the same criminal episode, run consecutively if each sentence is for a conviction of an assault punishable as a felony of the first degree under Section 22.02(b)(4).

SECTION 3. Amends Section 3.04(c), Penal Code, to provide that the right to severance under Section 3.04 (Severance) does not apply to a prosecution for offenses described by certain statutes, including Section 3.03(c), unless the court determines that the defendant or the state would be unfairly prejudiced by a joinder of offenses, in which event the judge is authorized to order the offenses to be tried separately or to order other relief as justice requires.

SECTION 4. Amends Section 22.02(b), Penal Code, to provide that an offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if certain criteria are met, including if the actor commits the assault as part of a mass shooting.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2023.