

SENATE AMENDMENTS

2nd Printing

By: Johnson of Dallas, Morales of Harris,
Rogers, Leach, Cook, et al.

H.B. No. 55

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the punishment for the criminal offense of indecent
3 assault; increasing a criminal penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 22.012, Penal Code, is amended by
6 amending Subsection (b) and adding Subsection (d) to read as
7 follows:

8 (b) An offense under this section is a Class A misdemeanor,
9 except that the offense is:

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

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

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

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

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

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

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

5 (d) In this section, "health care services provider" and
6 "mental health services provider" have the meanings assigned by
7 Section 22.011.

8 SECTION 2. The changes in law made by this Act apply only to
9 an offense committed on or after the effective date of this Act. An
10 offense committed before the effective date of this Act is governed
11 by the law in effect on the date the offense was committed, and the
12 former law is continued in effect for that purpose. For purposes of
13 this section, an offense was committed before the effective date of
14 this Act if any element of the offense occurred before that date.

15 SECTION 3. This Act takes effect September 1, 2023.

By: _____

Substitute the following for H.B. No. _____

Peter P. Stone

ADOPTED

MAY 24 2023

H.B. No. 55

55:

Haley Scott
Secretary of the Senate

H.B. No. 55

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 22.012, Penal Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) An offense under this section 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); or

(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 scope of generally accepted practices for the treatment or service; 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).

1 (d) In this section, "health care services provider" and
2 "mental health services provider" have the meanings assigned by
3 Section 22.011.

4 SECTION 2. The changes in law made by this Act apply only to
5 an offense committed on or after the effective date of this Act. An
6 offense committed before the effective date of this Act is governed
7 by the law in effect on the date the offense was committed, and the
8 former law is continued in effect for that purpose. For purposes of
9 this section, an offense was committed before the effective date of
10 this Act if any element of the offense occurred before that date.

11 SECTION 3. This Act takes effect September 1, 2023.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 25, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB55 by Johnson, Julie (Relating to the punishment for the criminal offense of indecent assault; increasing a criminal penalty.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would increase the penalty for the offense of indecent assault from a Class A misdemeanor to a state jail felony if the defendant has been previously convicted of indecent assault or is a health care services or mental health services provider and the act is committed during the course of providing a treatment or service that is beyond the scope of generally accepted practices. The penalty would be increased to a third degree felony if the defendant has been previously convicted of such indecent assault conduct as a health care services or mental health services provider. It is assumed that any fiscal impact and any impact on state correctional populations or on the demand for state correctional resources would not be significant.

Local Government Impact

It is assumed that any fiscal impact to units of local government associated with enforcement, prosecution, supervision, or confinement would not be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts

LBB Staff: JMc, SD, DDel, LBO, MGol

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 19, 2023

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB55** by Johnson, Julie (Relating to the punishment for the criminal offense of indecent assault; increasing a criminal penalty.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would increase the penalty for the offense of indecent assault from a Class A misdemeanor to a state jail felony if the defendant has been previously convicted of indecent assault or is a health care services or mental health services provider and the act is committed during the course of providing a treatment or service that is beyond the scope of generally accepted practices. The penalty would be increased to a third degree felony if the defendant has been previously convicted of such indecent assault conduct as a health care services or mental health services provider. It is assumed that any fiscal impact and any impact on state correctional populations or on the demand for state correctional resources would not be significant.

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Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts

LBB Staff: JMc, DDel, LBO, MGol

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 18, 2023

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB55 by Johnson, Julie (Relating to the punishment for the criminal offense of indecent assault; increasing a criminal penalty.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would increase the penalty for the offense of indecent assault from a Class A misdemeanor to a state jail felony if the defendant has been previously convicted of indecent assault, is a health care services or mental health services provider and the act is committed during the course of providing a treatment or service that is beyond the scope of generally accepted practices, or provided an alcoholic beverage to the other person with the intent to commit the act and the other person was an employee, intern, or otherwise supervised in a professional capacity by the defendant. The penalty would be increased to a third degree felony if the defendant has been previously convicted of such indecent assault conduct as a health care services or mental health services provider. It is assumed that any fiscal impact and any impact on state correctional populations or on the demand for state correctional resources would not be significant.

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LBB Staff: JMc, DDel, LBO, MGol

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 6, 2023

TO: Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB55 by Johnson, Julie (Relating to the punishment for the criminal offense of indecent assault; increasing a criminal penalty.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would increase the penalty for the offense of indecent assault from a Class A misdemeanor to a state jail felony if the defendant has been previously convicted of indecent assault or is a health care services or mental health services provider and the act is committed during the course of providing a treatment or service that is beyond the scope of generally accepted practices. The penalty would be increased to a third degree felony if the defendant has been previously convicted of such indecent assault conduct as a health care services or mental health services provider. It is assumed that any fiscal impact and any impact on state correctional populations or on the demand for state correctional resources would not be significant.

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Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts

LBB Staff: JMc, DDel, LBO, MGol

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

88TH LEGISLATIVE REGULAR SESSION

May 19, 2023

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB55 by Johnson, Julie (Relating to the punishment for the criminal offense of indecent assault; increasing a criminal penalty.), **Committee Report 2nd House, Substituted**

The bill would increase the penalty for the offense of indecent assault from a Class A misdemeanor to a state jail felony if the defendant has been previously convicted of indecent assault or is a health care services or mental health services provider and the act is committed during the course of providing a treatment or service that is beyond the scope of generally accepted practices. The penalty would be increased to a third degree felony if the defendant has been previously convicted of such indecent assault conduct as a health care services or mental health services provider.

Increasing the penalty for an existing offense may result in additional demands upon state and local correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement.

In fiscal year 2022, there were 537 individuals arrested, 130 individuals placed on community supervision, and no individuals admitted into a state correctional institution for indecent assault.

It is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

Source

Agencies:

LBB Staff: JMc, DDel, LBO, MGol

LEGISLATIVE BUDGET BOARD**Austin, Texas****CRIMINAL JUSTICE IMPACT STATEMENT****88TH LEGISLATIVE REGULAR SESSION****May 18, 2023****TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice**FROM:** Jerry McGinty, Director, Legislative Budget Board**IN RE: HB55** by Johnson, Julie (Relating to the punishment for the criminal offense of indecent assault; increasing a criminal penalty.), **As Engrossed**

The bill would increase the penalty for the offense of indecent assault from a Class A misdemeanor to a state jail felony if the defendant has been previously convicted of indecent assault, is a health care services or mental health services provider and the act is committed during the course of providing a treatment or service that is beyond the scope of generally accepted practices, or provided an alcoholic beverage to the other person with the intent to commit the act and the other person was an employee, intern, or otherwise supervised in a professional capacity by the defendant. The penalty would be increased to a third degree felony if the defendant has been previously convicted of such indecent assault conduct as a health care services or mental health services provider.

Increasing the penalty for an existing offense may result in additional demands upon state and local correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement.

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Source**Agencies:****LBB Staff:** JMc, DDeI, LBO, MGol

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT
88TH LEGISLATIVE REGULAR SESSION

March 6, 2023

TO: Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB55 by Johnson, Julie (Relating to the punishment for the criminal offense of indecent assault; increasing a criminal penalty.), **As Introduced**

The bill would increase the penalty for the offense of indecent assault from a Class A misdemeanor to a state jail felony if the defendant has been previously convicted of indecent assault or is a health care services or mental health services provider and the act is committed during the course of providing a treatment or service that is beyond the scope of generally accepted practices. The penalty would be increased to a third degree felony if the defendant has been previously convicted of such indecent assault conduct as a health care services or mental health services provider.

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