

BILL ANALYSIS

Senate Research Center
89R33791 MZM-D

C.S.H.B. 3073
By: Howard et al. (Paxton)
Criminal Justice
5/26/2025
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 3073 reflects a key recommendation from the Sexual Assault Survivors' Task Force (SASTF) in the Office of the Governor, which was created by the 86th Legislature to establish a survivor-centered, collaborative, and coordinated response to sexual violence in Texas.

H.B. 3073 closes gaps in the statutory definition of "consent" as it pertains to sexual assault to help prosecutors hold perpetrators of sexual violence accountable and provides clear protections for survivors in circumstances not explicitly covered by current Texas law.

The sexual assault statute (Section 22.011, Penal Code) does not currently provide a clear definition of consent, nor does it consider or even address the most common victim responses to a sexual assault. The current statutory definition contains a long list of what is not considered consent with regard to sexual violence, but fails to specify how consent is to be communicated or understood.

Providing an affirmative definition of consent shifts the burden to the defendant to prove that they got consent, rather than the burden being on the survivor to prove that they did not consent.

Bill Analysis:

- Amends Section 22.011(b), Penal Code.
- A sexual assault is without consent if the actor:
 - knows that the other person cannot consent because of intoxication or impairment by any substance (striking the requirement that the actor intentionally impaired the person without the person's knowledge for this to be applicable); or
 - knows the other person has withdrawn consent to the act and persists in the act anyway (as engrossed in the House; removed in the Senate committee substitute).
- Amends Section 22.011(c), Penal Code.
- Provides that "consent" is defined by the definition of consent used elsewhere in the Penal Code.
- "Assent in fact, whether express or apparent" (Section 1.07, Penal Code).
- Effective September 1, 2025.

Committee Substitute:

- Removes the withdrawn consent provision.
- Removes "or reasonably should know" from the provision relating to whether the victim is intoxicated or impaired.

Second Committee Substitute:

- Clarifies the language relating to intoxication or impairment to clarify that the other person is intoxicated or impaired "to the extent that the other person is incapable of consenting."

C.S.H.B. 3073 amends current law relating to the prosecution of the 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. Authorizes this Act to be cited as the Summer Willis Act.

SECTION 2. Amends Section 22.011(b), Penal Code, as follows:

(b) Provides that a sexual assault under Subsection (a)(1) (relating to providing that a person commits an offense of sexual assault if the person knowingly or intentionally causes certain actions to occur) is without the consent of the other person if certain conditions are met, including if the actor knows that the other person is intoxicated or impaired by any substance to the extent that the other person is incapable of consenting, rather than the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge.

SECTION 3. Amends Section 22.011(c), Penal Code, by adding Subdivision (1-a) to define "consent."

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2025.