

BILL ANALYSIS

H.B. 142
By: Moody
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that the current punishment for certain assaultive and sexual offenses involving certain offensive or provocative contact is inadequate for the wide range of conduct constituting such offenses. H.B. 142 seeks to address this issue by creating the offense of indecent assault.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 142 amends the Penal Code to create the Class A misdemeanor offense of indecent assault for a person who without consent and with the intent to arouse or gratify the sexual desire of any person touches, including through clothing, the anus, breast, or any part of the genitals of another person; touches another person, including through clothing, with the anus, breast, or any part of the genitals of any person; removes or attempts to remove any clothing covering another person's genitals, pubic area, anus, buttocks, or female areola; or causes another person to contact the blood, seminal fluid, vaginal fluid, saliva, urine, or feces of any person, including contact occurring through clothing. The bill establishes that if the conduct constituting the offense of indecent assault also constitutes an offense under another law, the actor may be prosecuted under the bill's provisions, the other law, or both. The bill expands the conduct constituting the offense for a violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, stalking, or trafficking case to include the knowing or intentional commission of an act in furtherance of the offense of indecent assault and makes conduct constituting that offense applicable to a violation of a condition of bond set in an indecent assault case.

H.B. 142 amends the Code of Criminal Procedure to authorize a victim of the offense of indecent assault to file an application for a protective order under provisions relating to protective orders for victims of the offense of sexual assault or abuse, stalking, or trafficking without regard to the relationship between the applicant and the alleged offender. The bill includes a court finding from information contained in such an application that there is a clear and present danger of indecent assault to the applicant among the conditions under which the court may enter a temporary ex parte order for the protection of the applicant or any other member of the applicant's family or household without further notice to the alleged offender and without a hearing. The bill includes indecent assault among the conduct for which a court, at the close of a

hearing on such an application, is required to find whether there are reasonable grounds to believe the applicant is a victim. The bill makes a statement that is made by a child younger than 14 years of age who is the victim of the offense of indecent assault and that describes the offense committed against the child admissible as evidence in a hearing on such an application in the same manner that a hearsay statement of a child abuse victim 12 years of age or younger is admissible under the Family Code in a suit affecting the parent-child relationship. The bill authorizes a magistrate to issue an order for emergency protection at a defendant's appearance before the magistrate after arrest for the offense of indecent assault on the magistrate's own motion or on the request of the victim of the offense, the guardian of the victim, a peace officer, or the attorney representing the state. The bill makes statutory provisions enumerating certain rights of victims of the offense of sexual assault or abuse, stalking, or trafficking applicable to a victim of the offense of indecent assault.

H.B. 142 amends the Government Code to require the Department of Public Safety (DPS) bureau of identification and records to collect, in addition to the other types of information the bureau is required to collect concerning the number and nature of protective orders, orders of emergency protection, and all other pertinent information about all persons subject to active orders, pertinent information about persons subject to conditions of bond imposed for the protection of a victim in any indecent assault case. The bill requires information in the law enforcement information system relating to an active protective order to include any conditions of bond imposed on the person to whom the order is directed for the protection of a victim in an indecent assault case. The bill makes the authority of DPS to adopt rules relating to active conditions of bond imposed on a defendant for the protection of a victim in any family violence, sexual assault or abuse, stalking, or trafficking case and certain reporting procedures regarding such conditions applicable to active conditions of bond imposed on a defendant for the protection of a victim in any indecent assault case.

H.B. 142 repeals Article 56.021(d), Code of Criminal Procedure, as added by Chapter 1153 (S.B. 630), Acts of the 84th Legislature, Regular Session, 2015.

EFFECTIVE DATE

September 1, 2017.