

- SUBJECT:** Raising penalty for assault of child by offensive, provocative touching
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 6 ayes — Herrero, Moody, Canales, Leach, Shaheen, Simpson  
0 nays  
1 absent — Hunter
- WITNESSES:** For — Eric Vickers, Abilene Police Department and CLEAT; (*Registered, but did not testify*: Christina Green, Children's Advocacy Centers of Texas; Sarah Crockett, Texas CASA)  
  
Against — (*Registered, but did not testify*: Kristin Etter, Texas Criminal Defense Lawyers Association)
- BACKGROUND:** Penal Code sec. 22.01 establishes the crime of assault. Under 22.01(3) it is an offense to intentionally or knowingly cause physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative. These offenses are class C misdemeanors (maximum fine of \$500), except that they are class A misdemeanors (up to one year in jail and/or a maximum fine of \$4,000) if committed against an elderly or disabled individual.
- DIGEST:** HB 1845 would raise the penalty from a class C misdemeanor to a Class A misdemeanor for assault committed against a child by intentionally or knowingly causing physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.  
  
The bill would take effect September 1, 2015, and would apply to offenses committed on or after that date.
- SUPPORTERS SAY:** HB 1845 would extend to children the same protections currently given to the elderly and disabled under Texas' assault statues dealing with

offensive or provocative touching. Children are a vulnerable class, just like the elderly and disabled, and deserve the same protections. The Penal Code recognizes that children are a vulnerable class and has other provisions that offer them extra protections, including an offense for injury to a child, elderly individual, or disable individual.

Current law punishes offensive or provocative touching only as a class C misdemeanor, an inappropriately low penalty, analogous to a traffic violation. HB 1845 would put the punishment for these offenses on par with the actions and help better protect children.

**OPPONENTS  
SAY:**

Enhancing the penalty for assault consisting of offensive touching from a class C misdemeanor to a class A misdemeanor could punish some actions too harshly. Assault offenses involving touching are appropriately punished as class C misdemeanors because there can be wide variations in how these terms are interpreted.