

## **BILL ANALYSIS**

Senate Research Center  
86R430 MEW-D

H.B. 667  
By: King, Ken et al. (Perry)  
Criminal Justice  
5/13/2019  
Engrossed

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

It has been suggested that the current means through which the penalty for the sexual assault of a family member is enhanced creates confusion when attempting to determine whether the victim is someone with whom the actor is prohibited from engaging in sexual conduct. H.B. 667 seeks to address this issue by revising the penalty enhancement for certain conduct constituting sexual assault.

Under the current system, sexual assault of a family member has an enhancement to a first degree felony under Section 22.011(f), Penal Code. Questions have arisen in regards to the legality of this section as to whether a case must be made that the actor was attempting to marry the victim.

H.B. 667 seeks to address this issue by adding language to ensure that this enhancement applies to a person whom the actor is prohibited from sexual contact with under Section 25.02, Penal Code. This legislation should remove the confusion of whether or not a person must be attempting to marry their family member in order to get the punishment enhanced.

H.B. 667 enhances from a second degree felony to a first degree felony the penalty for sexual assault if the victim was a person with whom the actor was prohibited from engaging in sexual intercourse or deviate sexual intercourse under state law.

H.B. 667 amends current law relating to the prosecution of and punishment for the offense of sexual assault, and enhances 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. Requires this Act to be known as Melissa's Law.

SECTION 2. Amends Sections 22.011(e) and (f), Penal Code, as follows:

(e) Provides that it is an affirmative defense to prosecution under Subsection (a)(2) (relating to providing that a person commits an offense if regardless of whether the person knows the age of the child at the time of the offense, the person intentionally or knowingly performs certain sexual acts):

(1) makes no changes to this subdivision; or

(2) that:

(A) makes no changes to this paragraph; and

(B) the victim:

(i) makes no changes to this subparagraph; and

(ii) was not:

(a) creates this sub-subparagraph from existing text and makes a nonsubstantive change; or

(b) a person with whom the actor was prohibited from engaging in sexual intercourse or deviate sexual intercourse under Section 25.02 (Prohibited Sexual Conduct).

(f) Provides that an offense under this section (Sexual Assault) is a felony of the second degree, except that an offense under this section is a felony of the first degree if the victim was:

(1) creates this subdivision from existing text and makes a nonsubstantive change; or

(2) a person with whom the actor was prohibited from engaging in sexual intercourse or deviate sexual intercourse under Section 25.02.

SECTION 3. Makes application of this Act prospective. Provides that, for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. Effective date: September 1, 2019.