

## **BILL ANALYSIS**

Senate Research Center

S.B. 1259  
By: Huffman  
Criminal Justice  
5/30/2019  
Enrolled

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

S.B. 1259 adds a definition of "without...consent," for the purposes of a sexual assault. Specifically, the bill adds situations where a health care provider, during an assistive reproduction procedure, uses reproductive material that the person on whom the procedure is being performed has not expressly consented to. An assault of this nature is a state jail felony. (Original Author's/Sponsor's Statement of Intent)

S.B. 1259 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. Amends Article 12.01, Code of Criminal Procedure, as follows:

Art. 12.01. FELONIES. Authorizes felony indictments, except as provided in Article 12.03 (Aggravated Offenses, Attempt, Conspiracy, Solicitation, Organized Criminal Activity), to be presented within these limits, and not afterward:

- (1) makes no changes to this subdivision;
- (2) ten years from the date of the commission of the offense for certain offenses, including sexual assault, except as provided by Subdivision (1) or (7), rather than Subdivision (1);
- (3)–(5) makes no changes to these subdivisions;
- (6) makes a nonsubstantive change to this subdivision;
- (7) two years from the date the offense was discovered: sexual assault punishable as a state jail felony under Section 22.011(f)(2), Penal Code; or
- (8) creates this subdivision from existing text and makes no further changes.

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

(b) Provides that a sexual assault under Subsection (a)(1) (relating to the offense of sexual assault) is without the consent of the other person if:

- (1)–(9) makes no changes to these subdivisions;
- (10)–(11) makes nonsubstantive changes to these subdivisions; or
- (12) the actor is a health care services provider who, in the course of performing an assisted reproduction procedure on the other person, uses human reproductive

material from a donor knowing that the other person has not expressly consented to the use of material from that donor.

(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:

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

(2) a state jail felony if the offense is committed under Subsection (a)(1) and the actor has not received express consent as described by Subsection (b)(12).

SECTION 3. Amends Section 22.011(c), Penal Code, by adding Subdivisions (6) and (7) to define "assisted reproduction," "donor," and "human reproductive material."

SECTION 4. 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 5. Effective date: September 1, 2019.