

BILL ANALYSIS

Senate Research Center

S.B. 194
By: Perry
Criminal Justice
6/25/2019
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, a \$500 fine is the maximum criminal penalty for intentionally groping or doing unspeakable sexual actions without consent. In Texas, groping is legally equivalent to most traffic tickets and public intoxication.

A Class C misdemeanor is an insufficient deterrent and punishment for these sexual assaults and attempted rapes. The effects of forcible groping and attempted rape are often as severe as rape. This bill seeks to classify these sexual assaults as Class A misdemeanors, and allow victims to seek civil protective orders against the offender.

This bill would make forced sexual touching—including grabbing a person's genitals or ejaculating on a person—punishable as a Class A misdemeanor. It would also make victims eligible for civil protective orders. (Original Author's/Sponsor's Statement of Intent)

S.B. 194 amends current law relating to the creation of the criminal offense of indecent assault, to judicial protection for victims of that offense, and to certain criminal acts committed in relation to that offense.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Department of Public Safety of the State of Texas is modified in SECTION 10 (Section 411.002, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 22, Penal Code, by adding Section 22.012, as follows:

Sec. 22.012. INDECENT ASSAULT. (a) Provides that a person commits an offense if, without the other person's consent and with the intent to arouse or gratify the sexual desire of any person, the person touches the anus, breast, or any part of the genitals of another person, touches another person with the anus, breast, or any part of the genitals of any person, exposes or attempts to expose 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.

(b) Provides that an offense under this section is a Class A misdemeanor.

(c) Authorizes the actor, if conduct that constitutes an offense under this section also constitutes an offense under another law, to be prosecuted under this section, the other law, or both.

SECTION 2. Amends the heading to Chapter 7A, Code of Criminal Procedure, to read as follows:

CHAPTER 7A. PROTECTIVE ORDER FOR VICTIMS OF SEXUAL ASSAULT OR ABUSE,
INDECENT ASSAULT, STALKING, OR TRAFFICKING

SECTION 3. Amends Article 7A.01(a), Code of Criminal Procedure, to authorize certain persons to file for an application for a protective order, including a person who is the victim of an offense under Section 22.012, Penal Code, among other sections of that code.

SECTION 4. Amends Article 7A.02, Code of Criminal Procedure, to make a conforming change.

SECTION 5. Amends Article 7A.03(a), Code of Criminal Procedure, to make a conforming change.

SECTION 6. Amends Article 7A.035, Code of Criminal Procedure, to make a conforming change.

SECTION 7. Amends Articles 17.292(a) and (g), Code of Criminal Procedure, as follows:

(a) Makes a conforming change to this subsection.

(g) Requires an order for emergency protection issued under this article (Magistrate's Order For Emergency Protection) to contain a specified statement. Authorizes an offense that is an act that results in a separate offense, rather than an act that results in family violence or a stalking or trafficking offense, to be prosecuted as a misdemeanor or felony, as applicable, in addition to a violation of this order.

SECTION 8. Amends the heading to Article 56.021, Code of Criminal Procedure, to read as follows:

Art. 56.021. RIGHTS OF VICTIM OF SEXUAL ASSAULT OR ABUSE, INDECENT ASSAULT, STALKING, OR TRAFFICKING.

SECTION 9. Amends Article 56.021(d), Code of Criminal Procedure, to make a conforming change.

SECTION 10. Amends Sections 411.042(b) and (g), Government Code, to make conforming changes.

SECTION 11. (a) Provides that this section takes effect only if the comptroller of public accounts of the State of Texas (comptroller) determines that Sections 14 and 69, H.B. 7, Acts of the 85th Legislature, Regular Session, 2017, took effect as provided by H.B. 7.

(b) Amends the heading to Section 25.07, Penal Code, to read as follows:

Sec. 25.07. VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS OF BOND IN A FAMILY VIOLENCE, CHILD ABUSE OR NEGLECT, SEXUAL ASSAULT OR ABUSE, INDECENT ASSAULT, STALKING, OR TRAFFICKING CASE.

(c) Amends Section 25.07(a), Penal Code, as follows:

(a) Provides that a person commits an offense, if in violation of a condition of a bond set in an indecent assault case, among other offenses, the person knowingly or intentionally:

(1) commits an act in furtherance of an offense under Section 22.012, among other sections; or

(2)–(6) makes no changes to these subdivisions.

(d) Amends the heading to Section 25.072, Penal Code, to read as follows:

Sec. 25.072. REPEATED VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS OF BOND IN FAMILY VIOLENCE, CHILD ABUSE OR

NEGLECT, SEXUAL ASSAULT OR ABUSE, INDECENT ASSAULT,
STALKING, OR TRAFFICKING CASE.

(e) Makes application of Sections 25.07 and 25.072, Penal Code, as amended by this section, 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 12. (a) Provides that this section takes effect only if the comptroller of public accounts of the State of Texas (comptroller) determines that Section 14 and 69, H.B. 7, Acts of the 85th Legislature, Regular Session, 2017, did not take effect as provided by H.B. 7.

(b) Amends the heading to Section 25.07, Penal Code, to read as follows:

Sec. 25.07. VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS
OF BOND IN A FAMILY VIOLENCE, SEXUAL ASSAULT OR ABUSE,
INDECENT ASSAULT, STALKING, OR TRAFFICKING CASE.

(c) Amends Section 25.07(a), Penal Code, to make conforming changes.

(d) Amends the heading to Section 25.072, Penal Code, to read as follows:

Sec. 25.07. REPEATED VIOLATION OF CERTAIN COURT ORDERS OR
CONDITIONS OF BOND IN A FAMILY VIOLENCE, SEXUAL ASSAULT
OR ABUSE, INDECENT ASSAULT, STALKING, OR TRAFFICKING CASE.

(e) Makes application of Sections 25.07 and 25.072, Penal Code, as amended by this section, 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 13. Amends Section 25.07(b), Penal Code, by adding Subdivision 8 to define "indecent assault."

SECTION 14. Makes application of Chapter 7A, Code of Criminal Procedure, as amended by this Act, and Article 17.292, Code of Criminal Procedure, as amended by this Act, prospective.

SECTION 15. Provides that Article 56.021(d), Code of Criminal Procedure, as amended by this Act, applies to a victim of criminally injurious conduct for which a judgment of conviction is entered or a grant of deferred adjudication is made on or after the effective date of this Act, regardless of whether the criminally injurious conduct occurred before, on, or after the effective date of this Act.

SECTION 16. Requires the comptroller, not later than the 30th day after the effective date of this section, to make the determination described by Sections 11(a) and 12(a) of this Act.

SECTION 17. (a) Effective date, except as provided by Subsection (b) of this section: September 1, 2019.

(b) Effective date, Section 16 of this Act: upon passage or September 1, 2019.