

BILL ANALYSIS

C.S.S.B. 194
By: Perry
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised 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. C.S.S.B. 194 seeks to address these concerns by creating the offense of indecent assault to apply to such conduct and authorizing a victim of such an offense to file an application for a protective order.

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 rulemaking authority is expressly granted to the Department of Public Safety in SECTION 10 of this bill.

ANALYSIS

C.S.S.B. 194 amends the Penal Code to create the Class A misdemeanor offense of indecent assault for a person who, without the other person's consent and with the intent to arouse or gratify the sexual desire of any person, engages in specified conduct. If conduct that constitutes the offense of indecent assault under the bill's provisions also constitutes an offense under another law, the actor may be prosecuted under the bill's provisions, under the other law, or both.

C.S.S.B. 194 expands the conduct constituting the offense of 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 those offenses applicable to a violation of a condition of bond set in an indecent assault case.

C.S.S.B. 194 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 sexual assault or abuse, stalking, or trafficking without regard to the relationship between the applicant and the alleged offender. The bill includes a 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 a 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. The bill includes indecent assault as conduct for which a court, at the close of a hearing on an application for an applicable protective order, is required to find whether there are reasonable grounds to believe that the applicant is a victim of such conduct.

C.S.S.B. 194 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 the same manner that a hearsay statement of a child abuse victim who is 12 years of age or younger is admissible in a suit affecting the parent-child relationship.

C.S.S.B. 194 authorizes a magistrate to issue an order for emergency protection at a defendant's appearance 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.

C.S.S.B. 194 makes applicable to a victim of indecent assault certain rights of victims of an offense of sexual assault or abuse, stalking, or trafficking.

C.S.S.B. 194 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 and magistrate's 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 the victim in any indecent assault case. The bill requires information in the law enforcement information system relating to an active order to include the conditions of bond imposed on a person to whom the order is directed for the protection of a victim in any indecent assault case. The bill authorizes DPS to adopt reasonable rules relating to active conditions of bond imposed on a defendant for the protection of a victim in any indecent assault case.

C.S.S.B. 194 requires the comptroller of public accounts to determine whether Sections 14 and 69, H.B. 7, Acts of the 85th Legislature, Regular Session, 2017, took effect as provided by H.B. 7. This requirement takes effect on passage, or, if the bill does not receive the vote necessary for immediate effect, September 1, 2019. The bill requires the comptroller to make the determination not later than the 30th day after the requirement's effective date.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2019.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 194 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute revises the elements of the conduct that constitutes the offense of indecent assault under the bill's provisions.