

SUBJECT:	Increasing the criminal penalty for reoffenders of indecent assault
COMMITTEE:	Criminal Jurisprudence — favorable, without amendment
VOTE:	9 ayes — Moody, Cook, Bhojani, Bowers, Darby, Harrison, Leach, C. Morales, Schatzline 0 nays
WITNESSES:	For — Jay English (<i>Registered, but did not testify</i> : Monica Ayres, Citizens Commission on Human Rights Texas; Jennifer Szimanski, Combined Law Enforcement Associations of Texas; M Paige Williams, Dallas County Criminal District Attorney John Creuzot; James Parnell, Dallas Police Association; Ray Hunt, Houston Police Officers Union; Carlos Ortiz, SAPOA; Ashley Brooks, Texas Association Against Sexual Assault; John Wilkerson, Texas Municipal Police Association; Thomas Parkinson) Against — None
BACKGROUND:	Penal Code sec. 22.012 establishes that the offense of indecent assault is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000). Some have suggested the law should provide a penalty enhancement for reoffenders of indecent assault and offenders who commit the offense while providing health care services.
DIGEST:	HB 55 would elevate the offense of indecent assault to a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000) if it was shown on the trial of the offense that the defendant had been previously convicted for such an offense, or if the defendant was a health care services provider or mental health services provider and the act was: <ul style="list-style-type: none">• committed during the course of providing a treatment or service to the victim; and• beyond the scope of generally accepted practices for the treatment

or service.

An offense of indecent assault would be a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) if the defendant had been previously convicted of indecent assault committed during the course of providing treatment or services to the victim and beyond the scope of generally accepted practices for the treatment or service.

Under HB 55, a health care provider would be a:

- licensed physician;
- licensed chiropractor;
- licensed physical therapist;
- licensed physician assistant; or
- registered nurse, vocational nurse, or an advanced practice nurse.

A mental health services provider would be an individual, licensed or unlicensed, who performed or purported to perform mental health services, including a:

- licensed social worker;
- chemical dependency counselor;
- licensed professional counselor;
- licensed marriage and family therapist;
- member of the clergy;
- psychologist offering psychological service; or
- special officer for mental health assignment.

The bill would take effect September 1, 2023, and would apply only to an offense committed on or after that date.