

SENATE AMENDMENTS

2nd Printing

By: Howard, Troxclair, Johnson, Cook,
Collier, et al.

H.B. No. 3073

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the prosecution of the offense of sexual assault.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. This Act may be cited as the Summer Willis Act.

5 SECTION 2. Section 22.011(b), Penal Code, is amended to
6 read as follows:

7 (b) A sexual assault under Subsection (a)(1) is without the
8 consent of the other person if:

9 (1) the actor compels the other person to submit or
10 participate by the use of physical force, violence, or coercion;

11 (2) the actor compels the other person to submit or
12 participate by threatening to use force or violence against the
13 other person or to cause harm to the other person, and the other
14 person believes that the actor has the present ability to execute
15 the threat;

16 (3) ~~[the other person has not consented and]~~ the actor
17 knows the other person is unconscious, ~~[or]~~ physically unable to
18 resist, or unaware that the sexual assault is occurring;

19 (4) the actor knows that as a result of mental disease
20 or defect the other person is at the time of the sexual assault
21 incapable either of appraising the nature of the act or of resisting
22 it;

23 (5) the actor knows the other person has withdrawn
24 consent to the act and the actor persists in the act ~~[the other~~

1 ~~person has not consented and the actor knows the other person is~~
2 ~~unaware that the sexual assault is occurring];~~

3 (6) the actor knows or reasonably should know that the
4 other person cannot consent because of intoxication or impairment
5 by any substance [~~the actor has intentionally impaired the other~~
6 ~~person's power to appraise or control the other person's conduct by~~
7 ~~administering any substance without the other person's knowledge];~~

8 (7) the actor compels the other person to submit or
9 participate by threatening to use force or violence against any
10 person, and the other person believes that the actor has the ability
11 to execute the threat;

12 (8) the actor is a public servant who coerces the other
13 person to submit or participate;

14 (9) the actor is a mental health services provider or a
15 health care services provider who causes the other person, who is a
16 patient or former patient of the actor, to submit or participate by
17 exploiting the other person's emotional dependency on the actor;

18 (10) the actor is a clergyman who causes the other
19 person to submit or participate by exploiting the other person's
20 emotional dependency on the clergyman in the clergyman's
21 professional character as spiritual adviser;

22 (11) the actor is an employee of a facility where the
23 other person is a resident, unless the employee and resident are
24 formally or informally married to each other under Chapter 2,
25 Family Code;

26 (12) the actor is a health care services provider who,
27 in the course of performing an assisted reproduction procedure on

1 the other person, uses human reproductive material from a donor
2 knowing that the other person has not expressly consented to the use
3 of material from that donor;

4 (13) the actor is a coach or tutor who causes the other
5 person to submit or participate by using the actor's power or
6 influence to exploit the other person's dependency on the actor; or

7 (14) the actor is a caregiver hired to assist the other
8 person with activities of daily life and causes the other person to
9 submit or participate by exploiting the other person's dependency
10 on the actor.

11 SECTION 3. Section 22.011(c), Penal Code, is amended by
12 adding Subdivision (1-a) to read as follows:

13 (1-a) "Consent" has the meaning assigned by Section
14 1.07.

15 SECTION 4. The change in law made by this Act applies only
16 to an offense committed on or after the effective date of this Act.
17 An offense committed before the effective date of this Act is
18 governed by the law in effect on the date the offense was committed,
19 and the former law is continued in effect for that purpose. For
20 purposes of this section, an offense was committed before the
21 effective date of this Act if any element of the offense occurred
22 before that date.

23 SECTION 5. This Act takes effect September 1, 2025.

ADOPTED

MAY 28 2025

Laticy Law
Secretary of the Senate

By: *April S. Pappas*

H.B. No. 3073

Substitute the following for H.B. No. 3073:

By: *Peter P. Stone*

C.S. H.B. No. 3073

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13 other person or to cause harm to the other person, and the other
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15 the threat;

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17 knows the other person is unconscious or physically unable to
18 resist;

19 (4) the actor knows that as a result of mental disease
20 or defect the other person is at the time of the sexual assault
21 incapable either of appraising the nature of the act or of resisting
22 it;

23 (5) the other person has not consented and the actor
24 knows the other person is unaware that the sexual assault is

1 occurring;

2 (6) the actor knows that the other person is
3 intoxicated or impaired by any substance to the extent that the
4 other person is incapable of consenting [~~the actor has~~
5 ~~intentionally impaired the other person's power to appraise or~~
6 ~~control the other person's conduct by administering any substance~~
7 ~~without the other person's knowledge~~];

8 (7) the actor compels the other person to submit or
9 participate by threatening to use force or violence against any
10 person, and the other person believes that the actor has the ability
11 to execute the threat;

12 (8) the actor is a public servant who coerces the other
13 person to submit or participate;

14 (9) the actor is a mental health services provider or a
15 health care services provider who causes the other person, who is a
16 patient or former patient of the actor, to submit or participate by
17 exploiting the other person's emotional dependency on the actor;

18 (10) the actor is a clergyman who causes the other
19 person to submit or participate by exploiting the other person's
20 emotional dependency on the clergyman in the clergyman's
21 professional character as spiritual adviser;

22 (11) the actor is an employee of a facility where the
23 other person is a resident, unless the employee and resident are
24 formally or informally married to each other under Chapter 2,
25 Family Code;

26 (12) the actor is a health care services provider who,
27 in the course of performing an assisted reproduction procedure on

1 the other person, uses human reproductive material from a donor
2 knowing that the other person has not expressly consented to the use
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19 and the former law is continued in effect for that purpose. For
20 purposes of this section, an offense was committed before the
21 effective date of this Act if any element of the offense occurred
22 before that date.

23 SECTION 5. This Act takes effect September 1, 2025.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 29, 2025

TO: Honorable Dustin Burrows, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3073 by Howard (Relating to the prosecution of the offense of sexual assault.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend certain conduct constituting the offense of sexual assault to establish that an act of sexual assault is without a person's consent if the actor knows that the other person is intoxicated or impaired by any substance to the extent that the other person is incapable of consenting.

While it is assumed that any state revenue impact would not be significant, it would be dependent on the number of offenses committed and the associated court costs.

Local Government Impact

It is assumed that any fiscal impact to units of local government associated with enforcement, prosecution, supervision, or confinement would not be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts

LBB Staff: JMc, SD, MGol, DGI, QH, AMr

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 26, 2025

TO: Honorable Pete Flores, Chair, Senate Committee on Criminal Justice

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3073 by Howard (relating to the prosecution of the offense of sexual assault.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend certain conduct constituting the offense of sexual assault to establish that an act of sexual assault is without a person's consent if the actor knows that the other person is intoxicated or impaired by any substance to the extent that the other person is incapable of consenting.

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Local Government Impact

It is assumed that any fiscal impact to units of local government associated with enforcement, prosecution, supervision, or confinement would not be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts

LBB Staff: JMc, MGol, DGI, QH, AMr

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 21, 2025

TO: Honorable Pete Flores, Chair, Senate Committee on Criminal Justice

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3073 by Howard (Relating to the prosecution of the offense of sexual assault.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend certain conduct constituting the offense of sexual assault to establish that an act of sexual assault is without a person's consent if the actor knows or reasonably should know that the person is temporarily incapacitated or otherwise unable to resist the act, unaware that the sexual assault is occurring, has withdrawn consent to the act, or intoxicated by any substance such that the person is incapable of consenting to the act.

While it is assumed that any state revenue impact would not be significant, it would be dependent on the number of offenses committed and the associated court costs.

Local Government Impact

It is assumed that any fiscal impact to units of local government associated with enforcement, prosecution, supervision, or confinement would not be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts

LBB Staff: JMc, MGol, AMr, QH

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

April 9, 2025

TO: Honorable John T. Smithee, Chair, House Committee on Criminal Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3073 by Howard (relating to the prosecution of the offense of sexual assault.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend certain conduct constituting the offense of sexual assault to establish that an act of sexual assault is without a person's consent if the actor knows or reasonably should know that the person is temporarily incapacitated or otherwise unable to resist the act, unaware that the sexual assault is occurring, has withdrawn consent to the act, or intoxicated by any substance such that the person is incapable of consenting to the act.

While it is assumed that any state revenue impact would not be significant, it would be dependent on the number of offenses committed and the associated court costs.

Local Government Impact

It is assumed that any fiscal impact to units of local government associated with enforcement, prosecution, supervision, or confinement would not be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts

LBB Staff: JMc, MGol, AMr, QH

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

March 30, 2025

TO: Honorable John T. Smithee, Chair, House Committee on Criminal Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3073 by Howard (Relating to the prosecution of the offense of sexual assault.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend certain conduct constituting the offense of sexual assault to establish that an act of sexual assault is without a person's consent if the actor knows or reasonably should know that the person is temporarily incapacitated or otherwise unable to resist the act, unaware that the sexual assault is occurring, has withdrawn consent to the act, or intoxicated by any substance such that the person is incapable of consenting to the act.

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Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts

LBB Staff: JMc, MGol, AMr, QH

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

89TH LEGISLATIVE REGULAR SESSION

May 26, 2025

TO: Honorable Pete Flores, Chair, Senate Committee on Criminal Justice

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3073 by Howard (relating to the prosecution of the offense of sexual assault.), **Committee Report 2nd House, Substituted**

The bill would amend certain conduct constituting the offense of sexual assault to establish that an act of sexual assault is without a person's consent if the actor knows that the other person is intoxicated or impaired by any substance to the extent that the other person is incapable of consenting.

Expanding the conduct constituting an existing criminal offense may result in additional demands upon state and local correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement.

In fiscal year 2024, there were 1,452 arrests, 100 referrals, 148 placements onto adult community supervision, 176 individuals admitted into an adult state correctional institution, and 3 individuals admitted into a juvenile state correctional institution for certain offenses of sexual assault.

It is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

Source

Agencies:

LBB Staff: JMc, MGol, DGI, AMr, QH

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

89TH LEGISLATIVE REGULAR SESSION

May 21, 2025

TO: Honorable Pete Flores, Chair, Senate Committee on Criminal Justice

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3073 by Howard (Relating to the prosecution of the offense of sexual assault.), **As Engrossed**

The bill would amend certain conduct constituting the felony offense of sexual assault to establish that an act of sexual assault is without a person's consent if the actor knows or reasonably should know that the person is temporarily incapacitated or otherwise unable to resist the act, unaware that the sexual assault is occurring, has withdrawn consent to the act, or intoxicated by any substance such that the person is incapable of consenting to the act.

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**LEGISLATIVE BUDGET BOARD
Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT
89TH LEGISLATIVE REGULAR SESSION**

April 9, 2025

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March 30, 2025

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