

- SUBJECT:** Expanding definition of sexual assaults committed by fertility doctors
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 8 ayes — Collier, Zedler, K. Bell, J. González, P. King, Moody, Murr, Pacheco
- 0 nays
- 1 absent — Hunter
- SENATE VOTE:** On final passage, April 11 — 31-0
- WITNESSES:** For — Eve Wiley; (*Registered, but did not testify:* David Sinclair, Game Warden Peace Officers Association; Mark Clark, Houston Police Officers' Union; Brian Hawthorne, Sheriffs' Association of Texas; Noel Johnson, TMPA; Justin Keener, Doug Deason; Maia Emmons; Cheryl Emmons; Tahner Scott)
- Against — None
- BACKGROUND:** Penal Code sec. 22.011 governs sexual assault offenses, which individuals commit when they intentionally or knowingly perform certain sexual acts on another person without the consent of that person. Sec. 22.011(b) lists the circumstances that constitute sexual assault without the consent of another person.
- Sexual assault offenses are second-degree felonies (two to 20 years in prison and an optional fine of up to \$10,000). If the victim was a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married, the offense is a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000).
- Some have noted that current law does not prohibit health care services providers performing assisted reproduction procedures from using their

own reproductive material or the reproductive material of another donor unauthorized by the patient to impregnate the patient.

**DIGEST:** SB 1259 would expand the conduct that constituted sexual assault without the consent of another person to include if the actor was a health care services provider who, in the course of performing an assisted reproduction procedure on another person, used human reproductive material from a donor knowing that the other person had not expressly consented to the use of material from that donor. The offense would be a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000).

The bill would define human reproductive material as human spermatozoa or ova or human organisms at any stage of development from fertilized ova to embryos.

The bill would set the statute of limitations for the offense at two years from the date the offense was discovered.

The bill would take effect September 1, 2019, and would apply only to offenses committed on or after that date.