

BILL ANALYSIS

Senate Research Center

H.B. 2561
By: Gallego (Moncrief)
Criminal Justice
5-7-97
Engrossed

DIGEST

Currently, the Texas Department of Health (TDH) has authority for the Sexual Assault Prevention and Crisis Services Program and contracts with the attorney general's office to implement the program; however, TDH is not involved in running the program. This legislation transfers the authority for the program from TDH to the attorney general in an effort to consolidate the oversight and administration of sexual assault prevention and crisis services.

PURPOSE

As proposed, H.B. 2561 establishes the administration of the Sexual Assault Prevention and Crisis Service.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the attorney general in SECTION 1 (Sections 420.004(b), and 420.010(b) and (c), Chapter 420A, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 44, Health and Safety Code, redesignated as Chapter 420, Government Code, as follows:

CHAPTER 420. SEXUAL ASSAULT PREVENTION AND CRISIS SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 420.001. SHORT TITLE. Redesignated from existing Section 44.001.

Sec. 420.002. PURPOSE. Redesignated from existing Section 44.002.

Sec. 420.003. DEFINITIONS. Defines "sexual assault examiner" and "sexual assault nurse examiner." Redefines "sexual assault." Redesignated from existing Section 44.003.

Sec. 420.004. SERVICE. Provides that the Sexual Assault Prevention and Crisis Service is a division in the office of the attorney general, rather than in the Texas Department of Health (TDH). Authorizes the attorney general, rather than the Texas Board of Health (TBH), to adopt rules relating to assigning service areas, monitoring services, distributing funds, and collecting information from sexual assault programs (programs). Redesignated from existing Section 44.004.

Sec. 420.005. GRANTS. Provides that a grant is governed by Chapter 783, rather than Article 4413(32g), V.T.C.S. Makes conforming changes. Redesignated from existing Section 44.005.

Sec. 420.006. FUNDING. Provides that the sexual assault prevention and crisis services fund is a special account in the general revenue fund, and establishes the use of money deposited to the credit of the fund. Makes conforming changes. Redesignated from existing Section 44.006.

Sec. 420.007. SEXUAL ASSAULT PROGRAM FUND. Provides that the fund consists of fees collected under Section 19(e), rather than 22(e), Article 42.12, Code of Criminal Procedure. Makes conforming changes. Redesignated from existing Section 44.0061.

Sec. 420.008. REPORT. Establishes the conditions under which the attorney general is required to publish a report on the service not later than December 10, rather than before October 31, of each even-numbered year. Makes conforming changes. Redesignated from existing Section 44.007.

Sec. 420.009. CONFIDENTIALITY. Makes conforming changes. Redesignated from existing Section 44.008.

Sec. 420.010. New heading: CERTIFICATION AND RULES. Requires the attorney general to adopt rules establishing minimum standards for the certification of a sexual assault program and a sexual assault nurse examiner. Requires the rules to require each program seeking certification to pay a \$25 fee. Provides that the certification is valid for two years from the date of issuance. Requires the attorney general to also adopt rules establishing minimum standards for the suspension, decertification, or probation of a training program that violates this chapter, or of a sexual assault nurse examiner who violates this chapter. Makes conforming changes. Redesignated from existing Section 44.009.

Sec. 420.011. CONSULTATIONS. Makes conforming changes. Redesignated from existing Section 44.010.

Sec. 420.012. DEPOSIT BY COMPTROLLER; AUDIT. Sets forth the terms by which the comptroller is required to deposit any money received and any money credited to the program by another law in the fund; and by which the fund and money expended from the fund are subject to audit.

Sec. 420.013. ATTORNEY GENERAL SUPERVISION OF COLLECTION OF COSTS; FAILURE TO COMPLY. Establishes the terms under which the attorney general shall send a warning letter to the court or the governing body of the governmental unit in which the court is located for failure to properly assess or collect costs; the court or governing body shall respond in writing; the comptroller shall conduct an audit of the appropriate entity; and the attorney general may refuse award grants or notify the State Commission on Judicial Conduct. Provides that the failure, refusal, or neglect of a judicial officer to comply with a requirement of this subchapter constitutes official misconduct and is grounds for removal from office.

SUBCHAPTER B. COLLECTION AND PRESERVATION OF EVIDENCE OF SEX OFFENSE

Sec. 420.031. EVIDENCE COLLECTION PROTOCOL; KITS. Sets forth the terms by which medical or law enforcement personnel collecting evidence of a sexual assault or other sex offense are required to use a service-approved evidence collection kit and protocol. Deletes the provision requiring medical personnel or a law enforcement agency collecting the same evidence to obtain and use an evidence collection kit. Makes conforming changes. Redesignated from existing Section 44.031.

SECTION 2. Effective date: September 1, 1997.

SECTION 3. Emergency clause.