

BILL ANALYSIS

Senate Research Center

C.S.S.B. 919
By: Moncrief
Criminal Justice
4-22-97
Committee Report (Substituted)

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, C.S.S.B. 919 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 420.011(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. Requires a program to provide at a minimum crisis intervention, rather than crisis counseling, in order to be eligible for a grant. Deletes existing text requiring a program to also provide professional training on sexual assault for certain persons and liaison with law enforcement, medical personnel, and prosecutors on behalf of survivors. Establishes that a grant is governed by Chapter 783, rather than the Uniform Grant and Contract Management Act of 1981, and rules adopted under that chapter, rather than that Act. Requires a hearing on the dispute to be held within a reasonable time, as established by rule by the attorney general. Makes conforming changes. Redesignated from existing Section

44.005.

Sec. 420.006. SPECIAL PROJECTS. Authorizes the attorney general to consult and contract with or award grants to local and statewide programs for special projects to prevent sexual assault and improve services to survivors.

Sec. 420.007. 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. 420.008. 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. 420.009. 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. 420.010. CONFIDENTIALITY. Makes conforming changes. Redesignated from existing Section 44.008.

Sec. 420.011. CERTIFICATION AND RULES. Requires the attorney general to adopt rules establishing minimum standards for the certification of a sexual assault training program and a sexual assault nurse examiner, and 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. 420.012. CONSULTATIONS. Makes conforming changes. Redesignated from existing Section 44.010.

Sec. 420.013. 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. 420.014. 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.

SUMMARY OF COMMITTEE CHANGES

Amends the relating clause to establish the administration of the Sexual Assault Prevention and Crisis Service, and delete the provision regarding the transfer of the program from TDH to the office of the attorney general.

SECTION 1.

Deletes the addition of Chapter 420 to the Government Code.

Amends Chapter 44, Health and Safety Code, redesignated as Chapter 420, Government Code.

Amends Section 420.003, Government Code, to redefine "sexual assault," "sexual assault examiner," and "sexual assault nurse examiner."

Amends Section 420.004, Government Code, to provide that the Sexual Assault Prevention and Crisis Service is a division in the attorney general's office, rather than establishing that the Sexual Assault and Crisis Service Division is in that office.

Amends Section 420.005, Government Code, to change the terms under which a program is eligible for a grant. Requires the attorney general, by rule, to require a program receiving a grant to cooperate with the attorney general, rather than TDH, during site-monitoring visits. Provides that a grant is governed by Chapter 783, rather than the Uniform Grant and Contract Management Act of 1981.

Adds Section 420.006, Government Code, to authorize the attorney general to consult and contract with or award grants to local and statewide programs for special projects to prevent sexual assault and improve services to survivors.

Amends Section 420.007, Government Code, to provide that the sexual assault prevention and crisis services fund is a special account in the general revenue fund, rather than being in the state treasury.

Amends Section 420.009, Government Code, to require the attorney general to publish a report on the service not later than December 10, rather than within 100 days after September 1, each even-numbered year.

Amends Section 420.011, Government Code, to require the attorney general to adopt rules establishing minimum standards for the suspension, decertification, or probation of a training program that violates this chapter, and of a sexual assault nurse examiner who violates this chapter. Changes the terms by which the attorney general is required to adopt rules establishing minimum standards for the certification of a sexual assault nurse examiner.

Amends Section 420.013, Government Code, to provide that the fund is subject to audit by the comptroller, rather than establishing that moneys collected are subject to audit by the comptroller.

Amends Section 420.014, Government Code, to change the terms by which the attorney general is required to send a warning letter to certain entities if the attorney general believes that a court or community supervision office has failed to properly collect costs.

Deletes former SECTIONS 2 AND 3.