

BILL ANALYSIS

Senate Research Center

H.B. 1234
By: Naishtat (Zaffirini)
Criminal Justice
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Engrossed

DIGEST AND PURPOSE

Survivors of sexual assault commonly experience a great deal of trauma as result of such an offense. As part of the investigation process, a person who has suffered a sexual assault must undergo an intrusive forensic medical examination that often exacerbates that feeling of trauma. H.B. 1234 requires physicians or other medical personnel to offer a person who alleges to have suffered a sexual assault the opportunity to have a sexual assault advocate from a sexual assault program present at the time of the examination and sets forth guidelines for that practice.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 56A, Code of Criminal Procedure, by adding Article 56.045, as follows:

Art. 56.045. PRESENCE OF ADVOCATE OR OTHER REPRESENTATIVE DURING FORENSIC MEDICAL EXAMINATION. (a) Requires the physician or other medical services personnel conducting the examination, before conducting a forensic medical examination of a person who alleges to have sustained injuries as the victim of a sexual assault, to offer the person the opportunity to have an advocate from a sexual assault program as defined by Section 420.003, Government Code, present with the person during the examination, if the advocate is available at the time of the examination.

(b) Authorizes the advocate to only provide the injured person with counseling and other support services and information regarding the rights of crime victims under Article 56.02.

(c) Prohibits the advocate and the sexual assault program providing the advocate, notwithstanding Subsection (a), from delaying or otherwise impeding the screening or stabilization of an emergency medical condition.

(d) Requires the sexual assault program providing the advocate to pay all costs associated with providing the advocate.

(e) Provides that a health care facility, including a hospital licensed under Chapter 241, Health and Safety Code, that provides an advocate with access to an injured person for purposes of this article is not subject to civil or criminal liability for providing that access.

(f) Requires the penal institution, if a person alleging to have sustained injuries as the victim of a sexual assault was confined in a penal institution, as defined by Section 1.07,

Penal Code, at the time of the alleged assault, to provide, at the person's request, a representative to be present with the person at any forensic medical examination conducted for the purpose of collecting and preserving evidence related to the investigation or prosecution of the alleged assault. Authorizes the representative to only provide the injured person with counseling and other support services and with information regarding the rights of crime victims under Article 56.02 and prohibits the representative from delaying or otherwise impeding the screening or stabilization of an emergency medical condition. Requires the representative to be approved by the penal institution and to be a psychologist; sociologist; chaplain; case manager; or volunteer who has completed a sexual assault training program described by Section 420.011(b), Government Code.

SECTION 2. Effective date: September 1, 2001.