

BILL ANALYSIS

Senate Research Center
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H.B. 546
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Criminal Justice
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current law does not require photo documentation of a child sexual assault medical examination. Photo documentation is imperative in such cases to provide for peer review (and/or supervisory/expert review) and to provide to experts for the defense. Current medical science provides the ability to videotape as well as take still photographs by a video colposcope or like equipment. Many medical facilities that perform child sexual assault examinations have this equipment or understand the necessity of this equipment for the purpose of medical forensic documentation.

H.B. 546 addresses the need for photo documentation in cases of child sexual assault by requiring such documentation for child victims in a county with a population of three million or more.

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 Subchapter B, Chapter 420, Government Code, by adding Section 420.032, as follows:

Sec. 420.032. PHOTO DOCUMENTATION REQUIRED FOR CHILD VICTIMS IN CERTAIN COUNTIES. (a) Defines "child," "medical professional," and "photo documentation."

(b) Requires the forensic portion of a medical examination of a child alleged to be the victim of a sexual assault, in a county with a population of three million or more, to include the production of photo documentation unless the medical professional examining the child determines that good cause for refraining from producing photo documentation exists.

(c) Requires the photo documentation to include images of the child's anogenital area and any signs of injury apparent on the body of the child.

(d) Requires the medical professional conducting the forensic portion of the medical examination, if photo documentation is not produced, to document in the child's medical records the reason photo documentation was not produced.

(e) Provides that the fact that the medical professional examining the child did not produce photo documentation in the forensic portion of a medical examination of a child alleged to be the victim of a sexual assault and the reasons behind the lack of photo documentation are admissible at the trial of the alleged sexual assault, but the lack of photo documentation will not affect the admissibility of other evidence in the case.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or June 1, 2005.