

BILL ANALYSIS

C.S.H.B. 546
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Law Enforcement
Committee Report (Substituted)

BACKGROUND AND PURPOSE

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 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.

C.S.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

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 546 amends Chapter 420 of the Government Code by adding §420.032 to require that in counties of three million or more, the forensic portion of a medical exam of a child alleged to be the victim of sexual assault must include photo documentation. The bill requires specific images and areas required to be photographed.

C.S.H.B. 546 authorizes a medical professional to refrain from producing photo documentation for good cause and requires the medical professional to document the reason for non-production in the child's medical records that if photo documentation is not produced. The bill provides that the fact that photo documentation was not produced and the reasons therefore are admissible at the trial of the alleged sexual assault, but that a lack of photo documentation does not affect the admissibility of other evidence in the case. The bill defines "child", "medical professional", and "photo documentation".

The bill provides that the change in law made by this Act applies to a sexual assault examination that occurs on or after the effective date of this Act.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect June 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 546 differs from the original House Bill 546 in that it adds to §420.032 of the Government Code definitions of the words "child" and "medical professional." The substitute deletes language from the original bill that would require the parent or legal guardian of the child to specifically consent to the photo documentation.