

BILL ANALYSIS

H.B. 2966
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Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Legislation enacted by a recent legislature enabled a victim of sexual assault to obtain a forensic medical examination regardless of whether the victim has reported the crime to a law enforcement agency and provided for the preservation of the examination as evidence for a certain period of time. Although the evidence and accompanying documentation need not contain identifying information about the victim, the Department of Public Safety (DPS) occasionally receives identifying information from the medical facilities that performed the forensic medical examinations. There is concern that current law relating to the forensic medical examinations of sexual assault victims does not adequately provide for the confidentiality of communications and records received by DPS from medical facilities for the purpose of open records requests. Interested parties note that the result of an open records request made to DPS could require disclosure of a sexual assault victim's identifying information, which would defeat the purpose of legislation enacted to allow such a victim to preserve vital evidence while retaining control of the victim's privacy.

H.B. 2966 seeks to address this issue by making a record or communication containing identifying information regarding certain sexual assault victims who received a forensic medical examination confidential.

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

H.B. 2966 amends the Code of Criminal Procedure to establish that a communication or record that contains identifying information regarding a sexual assault victim who has not reported the assault to a law enforcement agency and who receives a forensic medical examination and that is created by, provided to, or in the control or possession of the Department of Public Safety is confidential for purposes of confidential information excepted from state open records law. The bill defines "identifying information" as information revealing the identity, personal history, or background of the person or information concerning the victimization of the person.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.