

BILL ANALYSIS

Senate Research Center

S.B. 745
By: Nelson
Criminal Justice
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 745 amends the Crime Victim's Compensation Act to fix typographical errors and clarify ambiguous references to crime victims in the Sexual Assault Prevention and Crisis Services Act. These changes are not substantive but necessary to ensure that services can be carried out as intended by the legislature.

S.B. 745 amends current law relating to sexual assault prevention and crisis services and to the administration of the Crime Victims' Compensation Act.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the attorney general is rescinded in SECTION 4 (Section 420.004, Government Code) and SECTION 17 (Section 420.005, Government Code) of this bill.

Rulemaking authority previously granted to the attorney general is modified in SECTION 5 (Section 420.005, Government Code) and SECTION 11 (Section 420.011, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 56.39(a), Code of Criminal Procedure, to authorize that an order for a mental or physical examination or an autopsy as provided by Article 56.38(c)(2) (relating to authorizing the attorney general to order a claimant or victim to submit to a mental or physical examination under certain conditions), rather than Article 56.38(c)(3), be made for good cause shown on notice to the individual to be examined and to all persons who have appeared.

SECTION 2. Reenacts Article 56.61, Code of Criminal Procedure, as amended by Chapters 496 (S.B. 808) and 716 (H.B. 2916), Acts of the 81st Legislature, Regular Session, 2009, and amends it to authorize the attorney general to award compensation for pecuniary loss arising from criminally injurious conduct that occurred before January 1, 1980, if, in addition to other conditions, the identity of the victim is established by a law enforcement agency on or after January 1, 2009, rather than if the identity of the victim is established by a law enforcement agency on or after January 1, 2009, and the pecuniary loss was incurred with respect to the victim's funeral or burial on or after that date.

SECTION 3. Amends Section 420.003, Government Code, by adding Subdivisions (1-e) and (7-a) to define "minimum services" and "state sexual assault coalition" and amending Subdivisions (5), (6), and (7) to redefine "sexual assault examiner," "sexual assault nurse examiner," and "sexual assault program."

SECTION 4. Amends Section 420.004, Government Code, as follows:

Sec. 420.004. New heading: ADMINISTRATION OF PROGRAM. Deletes existing Subsection (a) designation. Requires the attorney general to administer the Sexual Assault Prevention and Crisis Services Program and authorizes the attorney general to delegate a power or duty given to the attorney general under this chapter (Sexual Assault Prevention and Crisis Services) to an employee in the attorney general's office. Deletes

existing text providing that the Sexual Assault Prevention and Crisis Service is a division in the office of the attorney general. Deletes existing Subsection (b) authorizing the attorney general to adopt rules relating to assigning service areas, monitoring services, distributing funds, and collecting information from programs in accordance with this chapter.

SECTION 5. Amends Sections 420.005(a), (b), and (d), Government Code, as follows:

(a) Authorizes the attorney general, for purposes described by Section 420.008 (Sexual Assault Program Fund), to award grants to sexual assault programs, state sexual assault coalitions, and other appropriate local and statewide programs and organizations related to sexual assault. Deletes existing text authorizing the attorney general to award grants to programs described by Section 420.008. Deletes existing text prohibiting a grant from resulting in the reduction of the financial support a program receives from another source.

(b) Authorizes the attorney general by rule to:

(1) determine eligibility requirements for any grant provided under this chapter;

(2) require a grant recipient to offer the minimum services for not less than nine months before receiving a grant and to continue to offer minimum services during the grant period; and

(3) require a grant recipient to submit financial and programmatic reports.

Deletes existing text authorizing the attorney general by rule to require that to be eligible for a grant, certain programs are required to provide certain services.

(d) Provides that this section does not prohibit a grant recipient, rather than a program, from offering any additional service, including a service for sexual assault offenders.

SECTION 6. Amends Section 420.006, Government Code, to authorize the attorney general to consult and contract with or award grants to entities described by Section 420.005(a), rather than local and statewide programs, for special projects to prevent sexual assault and improve services to survivors.

SECTION 7. Amends Section 420.007(b), Government Code, to prohibit the attorney general from using more than 15 percent of the annual legislative appropriation to the attorney general under Section 420.008(c)(1) (relating to authorizing the legislature to appropriate money deposited to the credit of the sexual assault program fund to the attorney general only for certain grants and campaigns), rather than to the service, for the administration of this chapter.

SECTION 8. Amends Section 420.009, Government Code, as follows:

Sec. 420.009. REPORT. Requires the attorney general, not later than December 10 of each even-numbered year, to publish a report regarding grants awarded under this chapter, rather than to publish a report on the service. Requires that the report analyze the effectiveness of the grants and include information on the expenditure of funds authorized by this chapter, the services provided, the number of persons receiving services, and any other information relating to the provision of sexual assault services. Deletes existing text requiring that the report summarize reports from programs receiving grants from the attorney general. Makes a nonsubstantive change.

SECTION 9. Amends Section 420.010, Government Code, to prohibit the attorney general from disclosing any information received from reports, collected case information, or site-monitoring visits that would identify a person working at or receiving services from a sexual assault program.

SECTION 10. Amends the heading to Section 420.011, Government Code, to read as follows:

Sec. 420.011. CERTIFICATION BY ATTORNEY GENERAL; RULES.

SECTION 11. Amends Section 420.011(a), Government Code, as follows:

(a) Authorizes the attorney general to adopt rules necessary to implement this chapter. Requires that a proposed rule be provided to grant recipients, rather than to programs receiving grants, at least 60 days before the date of adoption.

SECTION 12. Amends Section 420.013(a), Government Code, to require the comptroller of public accounts of the State of Texas to deposit any money received under this subchapter (General Provisions) and any money credited to the Sexual Assault Prevention and Crisis Services Program, rather than the program, by another law in the sexual assault prevention and crisis services fund.

SECTION 13. Amends Sections 420.031(a), (b), and (c), Government Code, as follows:

(a) Requires the attorney general, rather than the service, to develop and distribute to law enforcement agencies and proper medical personnel an evidence collection protocol that is required to include collection procedures and a list of requirements for the contents of an evidence collection kit for use in the collection and preservation of evidence of a sexual assault or other sex offense. Requires medical or law enforcement personnel collecting evidence of a sexual assault or other sex offense to use an attorney general-approved, rather than a service-approved, evidence collection kit and protocol.

(b) Requires that an evidence collection kit contain items to collect and preserve evidence of a sexual assault or other sex offense and other items determined necessary for the kit by the attorney general, rather than other items recommended by the Evidence Collection Protocol Advisory Committee of the attorney general and determined necessary for the kit by the attorney general.

(c) Requires the attorney general, rather than the service, in developing the evidence collection kit and protocol, rather than in developing evidence collection procedures and requirements, to consult with individuals and organizations having knowledge and experience in the issues of sexual assault and other sex offenses.

SECTION 14. Amends Section 420.051, Government Code, as follows:

Sec. 420.051. ADVOCATES FOR SURVIVORS OF SEXUAL ASSAULT. Authorizes an individual to act as an advocate for survivors of sexual assault for the purposes of Article 56.045 (Presence of Advocate or Representative During Forensic Medical Examination), Code of Criminal Procedure, if the individual has completed a sexual assault training program certified by the attorney general and is an employee or a volunteer of a sexual assault program. Deletes existing text authorizing an individual to act as an advocate for survivors of sexual assault if the individual has completed a sexual assault training program certified by the Department of Public Safety of the State of Texas and is employed by a sexual assault program or provides services through a sexual assault program as a volunteer under the supervision of an advocate.

SECTION 15. Amends Section 420.073(b), Government Code, to authorize a survivor or other person authorized to consent to withdraw consent to the release of information by submitting a written notice of withdrawal to the person or sexual assault program to which consent was provided.

SECTION 16. Amends Section 420.0735(e), Government Code, to authorize a survivor or other person authorized to consent to withdraw consent to the release of evidence by submitting a written notice of withdrawal to the person or sexual assault program to which consent was provided.

SECTION 17. Repealers: Sections 420.003(2) (defining "program") and (3) (defining "service") and Sections 420.005(c) (relating to requiring the attorney general by rule to require a program receiving a grant to take certain actions) and (f) (relating to authorizing the receipt of grant money by a program to be suspended in case of a dispute about the eligibility of the program to receive money under this chapter, and requiring that a hearing on the dispute be held within a reasonable time as established by rule of the attorney general), Government Code.

SECTION 18. Provides that the changes in law made by this Act to Articles 56.39 (Mental or Physical Examination; Autopsy) and 56.61 (Compensation for Certain Criminally Injurious Conduct Prohibited; Exception), Code of Criminal Procedure, apply only to criminally injurious conduct committed against a victim whose identity is established by a law enforcement agency on or after January 1, 2009. Provides that criminally injurious conduct committed against a victim whose identity is established by a law enforcement entity before January 1, 2009, is governed by the law in effect on the date the victim's identity was established, and the former law is continued in effect for that purpose.

SECTION 19. Effective date: September 1, 2013.