

BILL ANALYSIS

C.S.S.B. 745
By: Nelson
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties say there is a need to clarify provisions and correct typographical errors in the Crime Victims' Compensation Act and a need to update provisions relating to the administration of the Sexual Assault Prevention and Crisis Services Act in order to ensure that services are delivered as intended by the legislature. C.S.S.B. 745 seeks to address these issues.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the attorney general in SECTION 5 of this bill.

ANALYSIS

C.S.S.B. 745 reenacts and amends 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, to clarify that the attorney general's authority to award compensation for pecuniary loss arising from criminally injurious conduct constituting criminal homicide that occurred before January 1, 1980, if the victim's identity is established by a law enforcement agency on or after January 1, 2009, is not contingent on the loss being incurred with respect to the victim's funeral or burial on or after that date. The bill establishes a saving provision with respect to such conduct committed against a victim whose identity is so established before January 1, 2009.

C.S.S.B. 745 amends the Government Code to require the attorney general to administer the Sexual Assault Prevention and Crisis Services Program and to authorize the attorney general to delegate a power or duty given to the attorney general under the Sexual Assault Prevention and Crisis Services Act to an employee in the attorney general's office, rather than establishing the Sexual Assault Prevention and Crisis Service as a division in the office of the attorney general. The bill removes a provision authorizing the attorney general to adopt rules relating to assigning service areas, monitoring services, distributing funds, and collecting information from programs in accordance with the act. The bill authorizes the attorney general to award grants to sexual assault programs, state sexual assault coalitions, and other appropriate local and statewide programs and organizations related to sexual assault, for the purposes specified in statutory provisions regarding the sexual assault program fund, and removes the prohibition against such a grant resulting in the reduction of the financial support a program receives from another source. The bill authorizes the attorney general by rule to determine eligibility requirements for any grant awarded under the act, to require a grant recipient to offer the minimum services specified in the bill for not less than nine months before receiving a grant and to continue to offer minimum services during the grant period, and to require a grant recipient to submit financial and programmatic reports. The bill removes crisis intervention volunteer training from the services that the attorney general may by rule require a program to provide for grant eligibility and clarifies that the local and statewide programs with which or to which the attorney general may consult, contract, and award grants for special projects to prevent sexual assault and improve services to survivors are the sexual assault-related programs, coalitions, and organizations to which the attorney general may award grants for purposes of the sexual assault

program fund. The bill clarifies that the minimum services provided by a sexual assault program are provided to adult survivors of stranger and non-stranger sexual assault.

C.S.S.B. 745 clarifies that the limit on the amount of the annual legislative appropriation that the attorney general may use to administer the Sexual Assault Prevention and Crisis Services Act applies with respect to the appropriation to the attorney general under the sexual assault prevention fund for specific services and grants, rather than the appropriation to the Sexual Assault Prevention and Crisis Service. The bill clarifies that the biennial report required to be published by the attorney general is a report regarding grants awarded under the Sexual Assault Prevention and Crisis Services Act, rather than a report regarding the service, and removes the requirement that the report summarize reports from programs receiving grants from the attorney general. The bill makes the duties of the service regarding developing and distributing sexual assault evidence collection protocol and evidence collection kits apply instead to the attorney general and removes the requirement that such an evidence collection kit contain items recommended by the Evidence Collection Protocol Advisory Committee of the attorney general. The bill authorizes an individual to act as an advocate for survivors of sexual assault if the person has completed a training program certified by the attorney general, rather than by the Department of Public Safety, and removes the requirement that a volunteer of a sexual assault program acting as such an advocate provide services under the supervision of an advocate.

C.S.S.B. 745 repeals provisions requiring the attorney general by rule to impose certain requirements relating to financial reports, audits, minimum services to be offered, and site-monitoring visits on programs receiving grants under the Sexual Assault Prevention and Crisis Services Act and provisions regarding the suspension of grant money to a program in cases of dispute about the program's grant eligibility.

C.S.S.B. 745 repeals Sections 420.003(2) and (3) and Sections 420.005(c) and (f), Government Code.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.S.B. 745 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Subsection (a), Article 56.39, Code of Criminal Procedure, is amended.

SECTION 2. 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, is reenacted and amended.

SECTION 3. The change in law made by this Act applies only to criminally injurious conduct committed against a victim whose identity is established by a law enforcement agency on or after January 1, 2009.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as engrossed version except for recitation.

SECTION 2. Same as engrossed version.

SECTION 18. The changes in law made by this Act to Articles 56.39 and 56.61, Code of Criminal Procedure, apply only to criminally injurious conduct committed against a victim whose identity is

Criminally injurious conduct committed against a victim whose identity is established by a law enforcement agency 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 4. Section 420.003, Government Code, is amended by adding Subdivisions (1-e) and (7-a) and amending Subdivisions (5), (6), and (7) to read as follows:

(1-e) "Minimum services" means:

(A) a 24-hour crisis hotline;

(B) crisis intervention;

(C) public education;

(D) advocacy; and

(E) accompaniment to hospitals, law enforcement offices, prosecutors' offices, and courts.

(5) "Sexual assault examiner" means a person who uses an attorney general-approved ~~[a service-approved]~~ evidence collection kit and protocol to collect and preserve evidence of a sexual assault or other sex offense.

(6) "Sexual assault nurse examiner" means a registered nurse who has completed an attorney general-approved ~~[a service-approved]~~ examiner training course described by Section 420.011 and who is certified according to minimum standards prescribed by attorney general rule.

(7) "Sexual assault program" means any local public or private nonprofit corporation, independent of a law enforcement agency or prosecutor's office, that is operated as an independent program or as part of a municipal, county, or state agency and that provides the minimum services to address sexual assault ~~[established by this chapter]~~.

(7-a) "State sexual assault coalition" means a statewide nonprofit organization that has been identified as a state sexual assault coalition by a state or federal agency authorized to make that designation.

SECTION 5. Section 420.004, Government Code, is amended.

established by a law enforcement agency on or after January 1, 2009. Criminally injurious conduct committed against a victim whose identity is established by a law enforcement agency 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 3. Section 420.003, Government Code, is amended by adding Subdivisions (1-e) and (7-a) and amending Subdivisions (5), (6), and (7) to read as follows:

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(7) "Sexual assault program" means any local public or private nonprofit corporation, independent of a law enforcement agency or prosecutor's office, that is operated as an independent program or as part of a municipal, county, or state agency and that provides the minimum services to adult survivors of stranger and non-stranger sexual assault ~~[established by this chapter]~~.

(7-a) "State sexual assault coalition" means a statewide nonprofit organization that has been identified as a state sexual assault coalition by a state or federal agency authorized to make that designation.

SECTION 4. Same as engrossed version.

SECTION 6. Subsections (a), (b), and (d), Section 420.005, Government Code, are amended.

SECTION 7. Section 420.006, Government Code, is amended.

SECTION 8. Subsection (b), Section 420.007, Government Code, is amended.

SECTION 9. Section 420.009, Government Code, is amended.

SECTION 10. Section 420.010, Government Code, is amended.

SECTION 11. The heading to Section 420.011, Government Code, is amended.

SECTION 12. Subsection (a), Section 420.011, Government Code, is amended.

SECTION 13. Subsection (a), Section 420.013, Government Code, is amended.

SECTION 14. Subsections (a), (b), and (c), Section 420.031, Government Code, are amended.

SECTION 15. Section 420.051, Government Code, is amended.

SECTION 16. Subsection (b), Section 420.073, Government Code, is amended.

SECTION 17. Subsection (e), Section 420.0735, Government Code, is amended.

SECTION 18. Subdivisions (2) and (3), Section 420.003, and Subsections (c) and (f), Section 420.005, Government Code, are repealed.

SECTION 19. This Act takes effect September 1, 2013.

SECTION 5. Same as engrossed version except for recitation.

SECTION 6. Same as engrossed version.

SECTION 7. Same as engrossed version except for recitation.

SECTION 8. Same as engrossed version.

SECTION 9. Same as engrossed version.

SECTION 10. Same as engrossed version.

SECTION 11. Same as engrossed version except for recitation.

SECTION 12. Same as engrossed version except for recitation.

SECTION 13. Same as engrossed version except for recitation.

SECTION 14. Same as engrossed version.

SECTION 15. Same as engrossed version except for recitation.

SECTION 16. Same as engrossed version except for recitation.

SECTION 17. Substantially the same as engrossed version.

SECTION 19. Same as engrossed version.