

By: Neave

H.B. No. 401

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Texas Sexual Assault Evidentiary Council.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 420.003(5), Government Code, is amended to read as follows:

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

SECTION 2. Section 420.011(a), Government Code, is amended to read as follows:

(a) The attorney general, with the advice of the Texas Sexual Assault Evidentiary Council, may adopt rules necessary to implement this chapter. A proposed rule must be provided to grant recipients at least 60 days before the date of adoption.

SECTION 3. Subchapter A, Chapter 420, Government Code, is amended by adding Section 420.016 to read as follows:

Sec. 420.016. TEXAS SEXUAL ASSAULT EVIDENTIARY COUNCIL.

(a) In this section, "council" means the Texas Sexual Assault Evidentiary Council.

(b) The office of the attorney general shall establish the Texas Sexual Assault Evidentiary Council to advise the attorney general in the development of rules regarding the collection and

1 preservation of evidence in cases of sexual assault or other sex  
2 offenses.

3 (c) The council is composed of the following:

4 (1) the governor or the governor's designee;

5 (2) the attorney general or the attorney general's  
6 designee;

7 (3) a member of the senate, appointed by the  
8 lieutenant governor, or the member's designee;

9 (4) a member of the house of representatives,  
10 appointed by the speaker of the house, or the member's designee;

11 (5) the executive commissioner of the Health and Human  
12 Services Commission or the executive commissioner's designee;

13 (6) the executive director of the Texas Commission on  
14 Law Enforcement or the executive director's designee;

15 (7) the presiding officer of the Texas Forensic  
16 Science Commission or the presiding officer's designee;

17 (8) the division director of the Law Enforcement  
18 Support Division of the Texas Department of Public Safety with  
19 authority over the Crime Laboratory Service or the division  
20 director's designee;

21 (9) the president of the Texas District and County  
22 Attorney's Association or the president's designee;

23 (10) the president of the Sheriffs' Association of  
24 Texas or the president's designee;

25 (11) the president of the Texas Police Chiefs  
26 Association or the president's designee;

27 (12) the president of the Texas Society of

1 Pathologists or the president's designee;

2 (13) the chair of the Texas Hospital Association or  
3 the chair's designee;

4 (14) the president of the International Association of  
5 Forensic Nurses Texas Chapter or the president's designee;

6 (15) the president of the Texas Association Against  
7 Sexual Assault or the president's designee; and

8 (16) a person designated by the president of the Texas  
9 Association Against Sexual Assault to represent the interests of  
10 survivors of sexual assault or other sex offenses.

11 (d) An appointed member serves at the pleasure of the  
12 official who appointed the member.

13 (e) The presiding officer of the council is the attorney  
14 general or the attorney general's designee.

15 (f) The council shall meet at least twice a year at the call  
16 of the presiding officer. The council shall meet at other times as  
17 determined by the presiding officer.

18 (g) The council shall make and periodically update  
19 recommendations relating to the collection and preservation of  
20 evidence in cases of sexual assault or other sex offenses,  
21 including recommendations regarding:

22 (1) a standardized evidence collection kit for use in  
23 the collection and preservation of evidence of a sexual assault or  
24 other sex offense to be used throughout the state, specifying the  
25 physical dimensions, labeling, and contents of the kit;

26 (2) the development of a protocol for the collection  
27 and preservation of evidence of a sexual assault or other sex

1 offense;

2 (3) the curriculum for sexual assault evidence  
3 collection and preservation training programs; and

4 (4) the requirements for certification of sexual  
5 assault nurse examiners.

6 (h) The office of the attorney general shall supervise the  
7 administration of the council. The attorney general shall provide  
8 the necessary staff and facilities to assist the council in  
9 performing the council's duties.

10 (i) A member of the council may not receive compensation for  
11 serving on the council but is entitled to reimbursement for travel  
12 expenses incurred by the member while conducting the business of  
13 the council as provided by the General Appropriations Act.

14 (j) Not later than December 1 of each even-numbered year,  
15 the council shall submit a report regarding the council's  
16 activities, findings, and recommendations, including any proposed  
17 legislation or rules, to the governor, the lieutenant governor, and  
18 the legislature.

19 SECTION 4. Sections 420.031(a), (b), and (c), Government  
20 Code, are amended to read as follows:

21 (a) The attorney general, with the advice of the Texas  
22 Sexual Assault Evidentiary Council, shall adopt rules regarding  
23 ~~[develop and distribute to law enforcement agencies and proper~~  
24 ~~medical personnel]~~ an evidence collection protocol that shall  
25 include collection procedures and the requirements for a  
26 standardized ~~[a list of requirements for the contents of an]~~  
27 evidence collection kit for use throughout the state in the

1 collection and preservation of evidence of a sexual assault or  
2 other sex offense. Medical or law enforcement personnel collecting  
3 evidence of a sexual assault or other sex offense shall use an  
4 ~~[attorney general-approved]~~ evidence collection kit and protocol  
5 consistent with the rules adopted under this section.

6 (b) An evidence collection kit must contain the items  
7 required by rule and may contain additional items to collect and  
8 preserve evidence of a sexual assault or other sex offense [~~and~~  
9 ~~other items determined necessary for the kit by the attorney~~  
10 ~~general~~].

11 (c) In developing the evidence collection kit and protocol,  
12 the attorney general shall consult with the Texas Sexual Assault  
13 Evidentiary Council [~~individuals and organizations having~~  
14 ~~knowledge and experience in the issues of sexual assault and other~~  
15 ~~sex offenses~~].

16 SECTION 5. As soon as practicable after the effective date  
17 of this Act, the attorney general shall establish the Texas Sexual  
18 Assault Evidentiary Council as required by Section 420.016,  
19 Government Code, as added by this Act, and shall, with the advice of  
20 the Texas Sexual Assault Evidentiary Council, adopt the rules  
21 necessary to implement Section 420.031, Government Code, as amended  
22 by this Act.

23 SECTION 6. This Act takes effect immediately if it receives  
24 a vote of two-thirds of all the members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2019.