

By: Neave

H.B. No. 4531

A BILL TO BE ENTITLED

AN ACT

relating to elderly persons and persons with a disability who are survivors of sexual assault.

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

SECTION 1. Section 420.031, Government Code, is amended by adding subsection (g) and (h) to read as follows:

(g) a sexual assault examiner and sexual assault nurse examiner as defined in Section 420.003 of this chapter may provide upon request medical care to and collect forensic evidence for survivors of sexual assault who are incapacitated 14 years of age or older, regardless of whether or not the legal guardian of a survivor as defined by Chapter 1002, Estates Code consents.

(h) a sexual assault examiner and sexual assault nurse examiner defined in Section 420.003 of this chapter may provide upon request medical care to and collect forensic evidence for survivors of sexual assault who are wards, as that term is defined by Chapter 1002, Estates Code.

SECTION 2. Section 420.072(c), Government Code, is amended to read as follows:

(c) A communication, a record, or evidence that is confidential under this subchapter may not be disclosed to a parent or legal guardian of a survivor [~~who is a minor~~] if an advocate or a sexual assault program knows or has reason to believe that the parent or legal guardian of the survivor is a suspect or accomplice

1 in the sexual assault of the survivor.

2 SECTION 3. Section 420.073, Government Code, is amended by
3 amending Subsection (a) and adding Subsection (d) to read as
4 follows:

5 (a) Consent for the release of confidential information
6 other than evidence contained in an evidence collection kit must be
7 in writing and signed by the survivor, a parent or legal guardian if
8 the survivor is a minor, [~~a legal guardian if the survivor has been~~
9 ~~adjudicated incompetent to manage the survivor's personal~~
10 ~~affairs,~~] an attorney ad litem appointed for the survivor, or a
11 personal representative if the survivor is deceased. The written
12 consent must specify:

- 13 (1) the information or records covered by the release;
14 (2) the reason or purpose for the release; and
15 (3) the person to whom the information is to be
16 released.

17 (d) For purposes of Subsection (a), a written consent signed
18 by a survivor who is an incapacitated person 14 years of age or
19 older, as that term is defined by Chapter 1002, Estates Code, is
20 effective regardless of whether the incapacitated person's
21 guardian, guardian ad litem, or other legal agent signs the
22 release. If the incapacitated person is unable to provide a
23 signature and the guardian, guardian ad litem, or other legal agent
24 is unavailable or declines to sign the release, then the
25 investigating law enforcement officer may sign the release.

26 SECTION 4. Section 420.0735(b), Government Code, is amended
27 to read as follows:

1 (b) For purposes of Subsection (a)(1), a written consent
2 signed by an incapacitated person, as that term is defined by
3 Chapter 1002, Estates Code, is effective regardless of whether the
4 incapacitated person's guardian, guardian ad litem, or other legal
5 agent signs the release. If the incapacitated person is unable to
6 provide a signature and the guardian, guardian ad litem, or other
7 legal agent is unavailable or declines to sign the release, then the
8 investigating law enforcement officer may sign the release.

9 SECTION 7. This Act takes effect September 1, 2019.