

**House Bill 4531**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 323.004(c), Health and Safety Code, is amended to read as follows:

(c) A health care facility must obtain documented consent before providing the forensic medical examination and treatment. The facility shall presume that an adult sexual assault survivor requesting a forensic medical examination and treatment is competent.

SECTION 2. Chapter 323, Health and Safety Code, is amended by adding Section 323.0044 to read as follows:

Sec. 323.0044. PROVISION OF EMERGENCY SERVICES TO CERTAIN ADULT SEXUAL ASSAULT SURVIVORS.

(a) A health care facility shall provide a forensic medical examination and treatment to an adult sexual assault survivor for whom a guardian is appointed under Title 3, Estates Code, without the consent of the survivor's guardian, guardian ad litem, or other legal agent if:

(1) the health care facility determines the survivor understands the nature of the forensic medical examination and treatment; and

(2) the survivor agrees to receive the forensic medical examination and treatment.

(b) Subject to Subsection (c), if an adult sexual assault survivor requests a forensic medical examination and treatment and a health care facility determines the survivor potentially is incapable of consenting to the forensic medical examination and treatment, the health care facility may:

(1) obtain consent from a relative or caretaker of the survivor on the survivor's behalf;

(2) obtain consent from the survivor's guardian, guardian ad litem, or other legal agent; or

SENATE VERSION (IE)

SECTION 1. Same as House version.

SECTION 2. Same as House version.

CONFERENCE

**House Bill 4531**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(3) petition a court with probate jurisdiction in the county in which the facility is located for an emergency order authorizing the forensic medical examination and treatment, in the manner provided by Section 48.208, Human Resources Code.

(c) If personnel of a health care facility know or have reason to believe that the survivor's relative, caretaker, guardian, guardian ad litem, or other legal agent is a suspect or accomplice in the sexual assault of the survivor, the health care facility may not contact the survivor's relative, caretaker, guardian, guardian ad litem, or other legal agent.

(d) A health care facility may not provide a forensic medical examination to an adult sexual assault survivor for whom a guardian is appointed under Title 3, Estates Code, if the survivor refuses the examination, regardless of whether the survivor's guardian requests or consents to the examination.

SECTION 3. 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 or to a guardian appointed under Title 3, Estates Code, of an adult survivor, if applicable, 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 in the sexual assault of the survivor.

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

SECTION 3. Same as House version.

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

**House Bill 4531**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

as follows:

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

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

(d) For purposes of Subsection (a), a written consent signed by an adult survivor with a guardian appointed under Title 3, Estates Code, is effective regardless of whether the adult survivor's guardian, guardian ad litem, or other legal agent signs the release. If the adult survivor agrees to the release but is unable to provide a signature and the guardian, guardian ad litem, or other legal agent is unavailable or declines to sign the release, then a notary may sign the release in the manner provided by Section 406.0165.

SECTION 5. Section 420.0735(b), Government Code, is amended to read as follows:

(b) For purposes of Subsection (a)(1), a written consent

SENATE VERSION (IE)

as follows:

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

- (1) the information or records covered by the release;
- (2) the reason or purpose for the release; and [FA1(1)]
- (3) the person to whom the information is to be released; and
- (4) a reasonable time limitation during which the information or records may be released. [FA1(2)]

(d) For purposes of Subsection (a), a written consent signed by an adult survivor with a guardian appointed under Title 3, Estates Code, is effective regardless of whether the adult survivor's guardian, guardian ad litem, or other legal agent signs the release. If the adult survivor agrees to the release but is unable to provide a signature and the guardian, guardian ad litem, or other legal agent is unavailable or declines to sign the release, the person seeking the release of confidential information may petition a court with probate jurisdiction in the county in which the adult survivor resides for an emergency order authorizing the release of the information, in the manner provided by Section 48.208, Human Resources Code. [FA1(3)]

SECTION 5. Same as House version.

CONFERENCE

**House Bill 4531**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

signed by an adult survivor with a guardian appointed under Title 3 [~~incapacitated person, as that term is defined by Chapter 1002~~], Estates Code, is effective regardless of whether the adult survivor's [~~incapacitated person's~~] guardian, guardian ad litem, or other legal agent signs the release. If the adult survivor with an appointed guardian agrees to the release but [~~incapacitated person~~] is unable to provide a signature and the guardian, guardian ad litem, or other legal agent is unavailable or declines to sign the release, then the investigating law enforcement officer may sign the release.

SECTION 6. Section 1151.351(b), Estates Code, is amended to read as follows:

- (b) Unless limited by a court or otherwise restricted by law, a ward is authorized to the following:
- (1) to have a copy of the guardianship order and letters of guardianship and contact information for the probate court that issued the order and letters;
  - (2) to have a guardianship that encourages the development or maintenance of maximum self-reliance and independence in the ward with the eventual goal, if possible, of self-sufficiency;
  - (3) to be treated with respect, consideration, and recognition of the ward's dignity and individuality;
  - (4) to reside and receive support services in the most integrated setting, including home-based or other community-based settings, as required by Title II of the Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.);
  - (5) to consideration of the ward's current and previously stated personal preferences, desires, medical and psychiatric treatment preferences, religious beliefs, living arrangements,

SENATE VERSION (IE)

SECTION 6. Same as House version.

CONFERENCE

**House Bill 4531**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

and other preferences and opinions;

(6) to financial self-determination for all public benefits after essential living expenses and health needs are met and to have access to a monthly personal allowance;

(7) to receive timely and appropriate health care and medical treatment that does not violate the ward's rights granted by the constitution and laws of this state and the United States;

(8) to exercise full control of all aspects of life not specifically granted by the court to the guardian;

(9) to control the ward's personal environment based on the ward's preferences;

(10) to complain or raise concerns regarding the guardian or guardianship to the court, including living arrangements, retaliation by the guardian, conflicts of interest between the guardian and service providers, or a violation of any rights under this section;

(11) to receive notice in the ward's native language, or preferred mode of communication, and in a manner accessible to the ward, of a court proceeding to continue, modify, or terminate the guardianship and the opportunity to appear before the court to express the ward's preferences and concerns regarding whether the guardianship should be continued, modified, or terminated;

(12) to have a court investigator, guardian ad litem, or attorney ad litem appointed by the court to investigate a complaint received by the court from the ward or any person about the guardianship;

(13) to participate in social, religious, and recreational activities, training, employment, education, habilitation, and rehabilitation of the ward's choice in the most integrated setting;

(14) to self-determination in the substantial maintenance,

**House Bill 4531**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

disposition, and management of real and personal property after essential living expenses and health needs are met, including the right to receive notice and object about the substantial maintenance, disposition, or management of clothing, furniture, vehicles, and other personal effects;

(15) to personal privacy and confidentiality in personal matters, subject to state and federal law;

(16) to unimpeded, private, and uncensored communication and visitation with persons of the ward's choice, except that if the guardian determines that certain communication or visitation causes substantial harm to the ward:

(A) the guardian may limit, supervise, or restrict communication or visitation, but only to the extent necessary to protect the ward from substantial harm; and

(B) the ward may request a hearing to remove any restrictions on communication or visitation imposed by the guardian under Paragraph (A);

(17) to petition the court and retain counsel of the ward's choice who holds a certificate required by Subchapter E, Chapter 1054, to represent the ward's interest for capacity restoration, modification of the guardianship, the appointment of a different guardian, or for other appropriate relief under this subchapter, including a transition to a supported decision-making agreement, except as limited by Section 1054.006;

(18) to vote in a public election, marry, and retain a license to operate a motor vehicle, unless restricted by the court;

(19) to personal visits from the guardian or the guardian's designee at least once every three months, but more often, if necessary, unless the court orders otherwise;

(20) to be informed of the name, address, phone number, and purpose of Disability Rights Texas, an organization whose mission is to protect the rights of, and advocate for, persons

SENATE VERSION (IE)

CONFERENCE

**House Bill 4531**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

with disabilities, and to communicate and meet with representatives of that organization;

(21) to be informed of the name, address, phone number, and purpose of an independent living center, an area agency on aging, an aging and disability resource center, and the local mental health and intellectual and developmental disability center, and to communicate and meet with representatives from these agencies and organizations;

(22) to be informed of the name, address, phone number, and purpose of the Judicial Branch Certification Commission and the procedure for filing a complaint against a certified guardian;

(23) to contact the Department of Family and Protective Services to report abuse, neglect, exploitation, or violation of personal rights without fear of punishment, interference, coercion, or retaliation; ~~and~~

(24) to have the guardian, on appointment and on annual renewal of the guardianship, explain the rights delineated in this subsection in the ward's native language, or preferred mode of communication, and in a manner accessible to the ward; and

(25) to make decisions related to sexual assault crisis services, including consenting to a forensic medical examination and treatment, authorizing the collection of forensic evidence, consenting to the release of evidence contained in an evidence collection kit and disclosure of related confidential information, and receiving counseling and other support services.

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

SENATE VERSION (IE)

SECTION 7. Same as House version.

CONFERENCE