

HEALTH & SAFETY CODE

CHAPTER 44. SEXUAL ASSAULT PREVENTION AND CRISIS SERVICES

SUBCHAPTER C. ADVOCATES FOR SURVIVORS OF SEXUAL ASSAULT

Without reference to the addition of Subchapter C by Acts 1997, 75th Leg., ch. 775, Sec. 2, Acts 1997, 75th Leg., ch. 784, Sec. 1 redesignated Chapter 44, Health & Safety Code as Chapter 420, Government Code; see Government Code Sec. 420.001 et seq.

Sec. 44.051. ADVOCATES FOR SURVIVORS OF SEXUAL ASSAULT. An individual may act as an advocate for survivors of sexual assault if the individual has completed a sexual assault training program certified by the department and:

(1) is employed by a sexual assault program; or

(2) provides services through a sexual assault program as a volunteer under the supervision of an advocate.

Added by Acts 1997, 75th Leg., ch. 775, Sec. 2, eff. Sept. 1, 1997.

SUBCHAPTER D. CONFIDENTIAL COMMUNICATIONS

Without reference to the addition of Subchapter D by Acts 1997, 75th Leg., ch. 775, Sec. 2, Acts 1997, 75th Leg., ch. 784, Sec. 1 redesignated Chapter 44, Health & Safety Code as Chapter 420, Government Code; see Government Code Sec. 420.001 et seq.

Sec. 44.071. CONFIDENTIAL COMMUNICATIONS. (a) A communication between an advocate and a survivor, or a person claiming to be a survivor, that is made in the course of providing sexual assault advocacy services to the survivor is confidential and may not be disclosed except as provided by this subchapter.

(b) A record of the identity, personal history, or background information of a survivor or information concerning the victimization of a survivor that is created by or provided to an advocate or maintained by a sexual assault program is confidential and may not be disclosed except as provided by this subchapter.

(c) A person who receives information from a confidential communication or record as described by this subchapter may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was obtained.

(d) This subchapter governs a confidential communication or record concerning a survivor regardless of when the survivor received the services of an advocate or sexual assault program.

Added by Acts 1997, 75th Leg., ch. 775, Sec. 2, eff. Sept. 1, 1997.

Without reference to the addition of Subchapter D by Acts 1997, 75th Leg., ch. 775, Sec. 2, Acts 1997, 75th Leg., ch. 784, Sec. 1 redesignated Chapter 44, Health & Safety Code as Chapter 420, Government Code; see Government Code Sec. 420.001 et seq.

Sec. 44.072. EXCEPTIONS. (a) A communication or record that is confidential under this subchapter may be disclosed in court or in an administrative proceeding if:

(1) the proceeding is brought by the survivor against an advocate or a sexual assault program or is a criminal proceeding or a certification revocation proceeding in which disclosure is relevant to the claims or defense of the advocate or sexual assault program; or

(2) the survivor or a person authorized to act on behalf of the survivor consents in writing to the release of the confidential information as provided by Section 44.073.

(b) A communication or record that is confidential under this subchapter may be disclosed only to:

(1) medical or law enforcement personnel if the advocate determines that there is a probability of imminent physical danger to any person for whom the communication or record is relevant or if there is a probability of immediate mental or emotional injury to the survivor;

(2) a governmental agency if the disclosure is required or authorized by law;

(3) a qualified person to the extent necessary for a management audit, financial audit, program evaluation, or research, except that a report of the research, audit, or evaluation may not directly or indirectly identify a survivor;

(4) a person who has the written consent of the survivor or of a person authorized to act on the survivor's behalf as provided by Section 44.073; or

(5) an advocate or a person under the supervision of a counseling supervisor who is participating in the evaluation or counseling of or advocacy for the survivor.

(c) A communication or record 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 in the sexual assault of the survivor.

Added by Acts 1997, 75th Leg., ch. 775, Sec. 2, eff. Sept. 1, 1997. Without reference to the addition of Subchapter D by Acts 1997, 75th Leg., ch. 775, Sec. 2, Acts 1997, 75th Leg., ch. 784, Sec. 1 redesignated Chapter 44, Health & Safety Code as Chapter 420, Government Code; see Government Code Sec. 420.001 et seq.

Sec. 44.073. CONSENT. (a) Consent for the release of confidential information 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.

(b) A survivor or other person authorized to consent may withdraw consent to the release of information by submitting a written notice of withdrawal to the person or program to which consent was provided. Withdrawal of consent does not affect information disclosed before the date written notice of the withdrawal was received.

(c) A person who receives information made confidential by this chapter may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the person obtained the information.

Added by Acts 1997, 75th Leg., ch. 775, Sec. 2, eff. Sept. 1, 1997. Without reference to the addition of Subchapter D by Acts 1997, 75th Leg., ch. 775, Sec. 2, Acts 1997, 75th Leg., ch. 784, Sec. 1 redesignated Chapter 44, Health & Safety Code as Chapter 420, Government Code; see Government Code Sec. 420.001 et seq.

Sec. 44.074. CRIMINAL SUBPOENA. Notwithstanding any other provision of this chapter, a person shall disclose a communication or record that is confidential under this chapter for use in a criminal investigation or proceeding in response to a subpoena issued in accordance with law.

Added by Acts 1997, 75th Leg., ch. 775, Sec. 2, eff. Sept. 1, 1997.

Sec. 44.075. OFFENSE. A person commits an offense if the person intentionally or knowingly discloses a communication or record that is confidential under this chapter, except as provided by this chapter. An offense under this section is a Class C misdemeanor.

Added by Acts 1997, 75th Leg., ch. 775, Sec. 2, eff. Sept. 1, 1997.