

GOVERNMENT CODE  
CHAPTER 420. SEXUAL ASSAULT PREVENTION AND CRISIS SERVICES  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 420.001. SHORT TITLE. This chapter may be cited as the Sexual Assault Prevention and Crisis Services Act. Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991. Renumbered from V.T.C.A., Health and Safety Code Sec. 44.001 by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Sec. 420.002. PURPOSE. The purpose of this chapter is to promote the development throughout the state of locally based and supported nonprofit programs for the survivors of sexual assault and to standardize the quality of services provided. Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991. Renumbered from V.T.C.A., Health and Safety Code Sec. 44.002 by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Sec. 420.003. DEFINITIONS. In this chapter:

(1) "Advocate" means a person who provides advocacy services as an employee or volunteer of a sexual assault program.

(2) "Program" means a sexual assault program.

(3) "Service" means the Sexual Assault Prevention and Crisis Service.

(4) "Sexual assault" means any act or attempted act as described by Section 21.11, 22.011, 22.021, or 25.02, Penal Code.

(5) "Sexual assault examiner" means a person who uses 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 a service-approved examiner training course.

(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 established by this chapter.

(8) "Survivor" means an individual who is a victim of a sexual assault, regardless of whether a report or conviction is made in the incident.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 775, Sec. 1, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Health and Safety Code Sec. 44.003 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 8.08, eff. Sept. 1, 1999.

Sec. 420.004. SERVICE. (a) The Sexual Assault Prevention and Crisis Service is a division in the office of the attorney general.

(b) The attorney general may adopt rules relating to assigning service areas, monitoring services, distributing funds, and collecting information from programs in accordance with this chapter.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991. Renumbered from V.T.C.A., Health and Safety Code Sec. 44.004 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Sec. 420.005. GRANTS. (a) The attorney general may award grants to programs for maintaining or expanding existing services. A grant may not result in the reduction of the financial support a program receives from another source.

(b) To be eligible for a grant, a program must provide at a minimum:

(1) a 24-hour crisis hotline;

(2) crisis intervention;

(3) public education;

(4) advocacy and accompaniment to hospitals, law enforcement offices, prosecutors' offices, and courts for survivors and their family members; and

(5) crisis intervention volunteer training.

(c) The attorney general by rule shall require a program receiving a grant to:

(1) submit quarterly and annual financial reports to the attorney general;

(2) submit to an annual independent financial audit;

(3) cooperate with the attorney general during site-monitoring visits; and

(4) offer the minimum services described by Subsection

(b) for at least nine months before receiving a grant.

(d) This section does not prohibit a program from offering any additional service, including a service for sexual assault offenders.

(e) A grant is governed by Chapter 783 and rules adopted under that chapter.

(f) The receipt of grant money by a program may be suspended in case of a dispute about the eligibility of the program to receive the money under this chapter. A hearing on the dispute must be held within a reasonable time, as established by rule by the attorney general.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991. Renumbered from V.T.C.A., Health and Safety Code Sec. 44.005 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Sec. 420.006. SPECIAL PROJECTS. The attorney general may consult and contract with or award grants to local and statewide programs for special projects to prevent sexual assault and improve services to survivors.

Added by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Sec. 420.007. FUNDING. (a) The attorney general may receive grants, gifts, or appropriations of money from the federal government, the state legislature, or private sources to finance the grant program created by this chapter.

(b) The attorney general may not use more than 15 percent of the annual legislative appropriation to the service for the administration of this chapter.

(c) The sexual assault prevention and crisis services fund is a special account in the general revenue fund. Money deposited to the credit of the fund may be used only as provided by this subchapter and is not available for any other purpose.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991. Renumbered from V.T.C.A., Health and Safety Code Sec. 44.006 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Sec. 420.008. SEXUAL ASSAULT PROGRAM FUND. (a) The sexual assault program fund is a special account in the general revenue fund.

(b) The fund consists of fees collected under Section 19(e), Article 42.12, Code of Criminal Procedure, and Section 508.189, Government Code.

(c) The legislature may appropriate money deposited to the credit of the fund only to the attorney general to finance the grant program created by this chapter.

Added by Acts 1993, 73rd Leg., ch. 805, Sec. 12, eff. Aug. 30, 1993. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.18, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Health and Safety Code Sec. 44.0061 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Sec. 420.009. REPORT. The attorney general shall publish a report on the service not later than December 10 of each even-numbered year. The report must summarize reports from programs receiving grants from the attorney general, analyze the effectiveness of the grants, and include information on the expenditure of funds authorized by this chapter, the services provided, the number of persons receiving services, and any other information relating to the provision of sexual assault services. A copy of the report shall be submitted to the governor, lieutenant governor, speaker of the house of representatives, Legislative Budget Board, Senate Committee on Health and Human Services or its successor committee, and House Committee on Human Services or its successor committee.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991. Renumbered from V.T.C.A., Health and Safety Code Sec. 44.007 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Sec. 420.010. CONFIDENTIALITY. The attorney general may not disclose any information received from reports, collected case information, or site-monitoring visits that would identify a person working at or receiving services from a program.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991. Renumbered from V.T.C.A., Health and Safety Code Sec. 44.008 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Sec. 420.011. CERTIFICATION AND RULES. (a) The attorney

general may adopt rules necessary to implement this chapter. A proposed rule must be provided to programs receiving grants at least 60 days before the date of adoption.

(b) The attorney general shall adopt rules establishing minimum standards for the certification of a sexual assault training program. The certification is valid for two years from the date of issuance. The attorney general shall also adopt rules establishing minimum standards for the suspension, decertification, or probation of a training program that violates this chapter.

(c) The attorney general shall adopt rules establishing minimum standards for the certification of a sexual assault nurse examiner, including standards for examiner training courses and for the interstate reciprocity of sexual assault nurse examiners. The certification is valid for two years from the date of issuance. The attorney general shall also adopt rules establishing minimum standards for the suspension, decertification, or probation of a sexual assault nurse examiner who violates this chapter.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991. Renumbered from V.T.C.A., Health and Safety Code Sec. 44.009 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Sec. 420.012. CONSULTATIONS. In implementing this chapter, the attorney general shall consult persons and organizations having knowledge and experience relating to sexual assault.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991. Renumbered from V.T.C.A., Health and Safety Code Sec. 44.010 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Sec. 420.013. DEPOSIT BY COMPTROLLER; AUDIT. (a) The comptroller shall deposit any money received under this subchapter and any money credited to the program by another law in the sexual assault prevention and crisis services fund.

(b) The sexual assault prevention and crisis services fund is subject to audit by the comptroller. Money expended from the fund is subject to audit by the state auditor.

Added by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Sec. 420.014. ATTORNEY GENERAL SUPERVISION OF COLLECTION OF COSTS; FAILURE TO COMPLY. (a) If the attorney general reasonably believes that a court or a community supervision office has not properly assessed or made a reasonable effort to collect costs due under Article 42.12 or 42.18, Code of Criminal Procedure, the attorney general shall send a warning letter to the court or the governing body of the governmental unit in which the court is located.

(b) Not later than the 60th day after the receipt of a warning letter, the court or governing body shall respond in writing to the attorney general specifically addressing the charges in the warning letter.

(c) If the court or governing body does not respond or if the attorney general considers the response inadequate, the attorney general may request the comptroller to audit the records of:

- (1) the court;
- (2) the community supervision office;
- (3) the officer charged with collecting the costs; or
- (4) the treasury of the governmental unit in which the court is located.

(d) The comptroller shall provide the attorney general with the results of the audit.

(e) If the attorney general finds from available evidence that a court or a community supervision office has not properly assessed or made a reasonable effort to collect costs due under Article 42.12 or 42.18, Code of Criminal Procedure, the attorney general may:

(1) refuse to award grants under this subchapter to residents of the jurisdiction served by the court or community supervision office; or

(2) in the case of a court, notify the State Commission on Judicial Conduct of the findings.

(f) The failure, refusal, or neglect of a judicial officer to comply with a requirement of this subchapter constitutes official misconduct and is grounds for removal from office.

Added by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

#### SUBCHAPTER B. COLLECTION AND PRESERVATION OF EVIDENCE OF SEX OFFENSE

Sec. 420.031. EVIDENCE COLLECTION PROTOCOL; KITS. (a) The service shall develop and distribute to law enforcement agencies and proper medical personnel an evidence collection protocol that shall include collection procedures and a list of requirements for the contents of an evidence collection kit for use in the collection and preservation of evidence of a sexual assault or other sex offense. Medical or law enforcement personnel collecting evidence of a sexual assault or other sex offense shall use a service-approved evidence collection kit and protocol.

(b) An evidence collection kit must contain the following items:

(1) items to collect and preserve evidence of a sexual assault or other sex offense; and

(2) other items recommended by the Evidence Collection Protocol Advisory Committee of the attorney general and determined necessary for the kit by the attorney general.

(c) In developing evidence collection procedures and requirements, the service shall consult with individuals and organizations having knowledge and experience in the issues of sexual assault and other sex offenses.

(d) A law enforcement agency that requests a medical examination of a victim of an alleged sexual assault or other sex offense for use in the investigation or prosecution of the offense shall pay the costs of the evidence collection kit. This subsection does not require a law enforcement agency to pay any costs of treatment for injuries.

(e) Evidence collected under this section may not be released unless the survivor of the offense or a legal representative of the survivor signs a written consent to release the evidence.

(f) Failure to comply with evidence collection procedures or requirements adopted under this section does not affect the admissibility of the evidence in a trial of the offense.

Added by Acts 1991, 72nd Leg., ch. 143, Sec. 1, eff. Aug. 26, 1991. Renumbered from V.T.C.A., Health and Safety Code Sec. 44.031 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Sec. 420.032. PHOTO DOCUMENTATION REQUIRED FOR CHILD VICTIMS IN CERTAIN COUNTIES. (a) In this section:

(1) "Child" has the meaning assigned by Section 101.003, Family Code.

(2) "Medical professional" has the meaning assigned by Section 91.001, Family Code.

(3) "Photo documentation" means video or photographs of a child alleged to be the victim of a sexual assault that are taken with a colposcope or other magnifying camera during the forensic portion of a medical examination of the child.

(b) In a county with a population of three million or more, the forensic portion of a medical examination of a child alleged to be the victim of a sexual assault must include the production of photo documentation unless the medical professional examining the child determines that good cause for refraining from producing photo documentation exists.

(c) The photo documentation must include images of the child's anogenital area and any signs of injury apparent on the body of the child.

(d) If photo documentation is not produced, the medical professional conducting the forensic portion of the medical examination shall document in the child's medical records the reason photo documentation was not produced.

(e) The fact that the medical professional examining the child did not produce photo documentation in the forensic portion of a medical examination of a child alleged to be the victim of a sexual assault and the reasons behind the lack of photo documentation are admissible at the trial of the alleged sexual assault, but the lack of photo documentation will not affect the admissibility of other evidence in the case.

Added by Acts 2005, 79th Leg., ch. 180, Sec. 1, eff. May 27, 2005.

#### SUBCHAPTER C. ADVOCATES FOR SURVIVORS OF SEXUAL ASSAULT

##### Sec. 420.051. ADVOCATES FOR SURVIVORS OF SEXUAL ASSAULT.

Editorially duplicated from V.T.C.A., Health & Safety Code Sec. 44.051. See Historical and Statutory Notes, post.

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

##### Sec. 420.071. CONFIDENTIAL COMMUNICATIONS.

Editorially duplicated from V.T.C.A., Health & Safety Code Sec. 44.071. See Historical and Statutory Notes, post.

(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.

##### Sec. 420.072. EXCEPTIONS.

Editorially duplicated from V.T.C.A., Health & Safety Code Sec. 44.072. See Historical and Statutory Notes, post.

(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.

##### Sec. 420.073. CONSENT.

Editorially duplicated from V.T.C.A., Health & Safety Code Sec. 44.073. See Historical and Statutory Notes, post.

(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.

Sec. 420.074. CRIMINAL SUBPOENA.

Editorially duplicated from V.T.C.A., Health & Safety Code Sec. 44.074. See Historical and Statutory Notes, post.

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. 420.075. OFFENSE.

Editorially duplicated from V.T.C.A., Health & Safety Code Sec. 44.075. See Historical and Statutory Notes, post.

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.