

SUBJECT: Expanding rights and treatment of certain adult sexual assault survivors

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Leach, Farrar, Y. Davis, Julie Johnson, Krause, Meyer, Neave, Smith, White

0 nays

WITNESSES: For — James Meadours, Texas Advocates; Kyle Piccola, The Arc of Texas; (*Registered, but did not testify:* Chris Masey, Coalition of Texans with Disabilities; James Parnell, Dallas Police Association; Jeff Miller, Disability Rights Texas; Jessica Anderson, Houston Police Department; Chris Kaiser, Texas Association Against Sexual Assault; Lee Johnson, Texas Council of Community Centers; Amy Bresnen, Texas Family Law Foundation; Noel Johnson, Texas Municipal Police Association; Robert Norris; Julie Ross)

Against — None

On — Ashley Ford, Texas Council for Developmental Disabilities

DIGEST: CSHB 4531 would authorize adults under guardianship to make decisions related to sexual assault crisis services, including consenting to forensic medical examinations and treatment, authorizing the collection of forensic evidence, consenting to the release of evidence contained in collection kits and disclosure of related confidential information, and receiving counseling and other support services.

Examination and treatment. Health care facilities would have to presume that adult sexual assault survivors who requested forensic medical examinations and treatment were competent. If a health care facility determined that an adult survivor under guardianship understood the nature of and agreed to receive the examination and treatment, the health care facility would have to provide the examination and treatment whether or not the guardian gave consent. If a survivor refused an

examination, health care facilities could not provide it regardless of whether the survivor's guardian requested or consented to it.

If a health care facility determined that a survivor potentially was incapable of consenting to examinations and treatment, the facility could obtain consent from a relative, caretaker, guardian, guardian ad litem, or legal agent, or it could petition a county court with probate jurisdiction for an emergency order authorizing the examination and treatment.

Health care facilities would not be permitted to contact a survivor's relative, caretaker, guardian, guardian ad litem, or other legal agent if facility personnel knew or had reason to believe that person was a suspect or accomplice in the sexual assault of the survivor.

Access to confidential information and evidence. The bill would extend to adult survivors under guardianship certain protections requiring information to be kept confidential from a survivor's guardian if there was reason to believe the guardian was a suspect or accomplice in the assault.

Adult survivors under guardianship could access evidence from an evidence collection kit or confidential information regarding a sexual assault case by providing written consent whether or not the adult survivor's guardian, guardian ad litem, or other legal agent signed the release. If the survivor agreed to sign the release but was unable to provide a signature and the guardian was unavailable or declined to sign the release, the investigating law enforcement officer could sign it.

The bill would take effect September 1, 2019.