

BILL ANALYSIS

Senate Research Center

S.B. 745
By: Nelson
Criminal Justice
3/25/2013
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 745 amends two sections of the Crime Victim's Compensation Act to fix typographical errors and clarify ambiguous references to crime victims in the Sexual Assault Prevention and Crisis Services Act. These changes are not substantive but necessary to ensure that services can be carried out as intended by the legislature.

As proposed, S.B. 745 amends current law relating to review and verification procedures, and allowing certain claimants to file an application under the Crime Victims' Compensation Act; and the administration of the Sexual Assault Prevention and Crisis Services Act.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the attorney general of the State of Texas (attorney general) is modified in SECTION 4 (Sections 420.004, 420.005, and 420.011, Government Code) of this bill.

Rulemaking authority previously granted to the attorney general is rescinded in SECTION 4 (Section 420.005, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 56.39(a), Code of Criminal Procedure, to authorize that an order for a mental or physical examination or an autopsy as provided by Article 56.38(c)(2) (relating to authorizing the attorney general to order a claimant or victim to submit to a mental or physical examination under certain conditions), rather than Article 56.38(c)(3), be made for good cause shown on notice to the individual to be examined and to all persons who have appeared.

SECTION 2. Reenacts Article 56.61, Code of Criminal Procedure, as amended by Chapters 496 (S.B. 808) and 716 (H.B. 2916), Acts of the 81st Legislature, Regular Session, 2009, and amends it to authorize the attorney general to award compensation for pecuniary loss arising from criminally injurious conduct that occurred before January 1, 1980, if, in addition to other conditions, the identity of the victim is established by a law enforcement agency on or after January 1, 2009, rather than if the identity of the victim is established by a law enforcement agency on or after January 1, 2009, and the pecuniary loss was incurred with respect to the victim's funeral or burial on or after that date.

SECTION 3. Makes application of the change in law made by Section 2 prospective to January 1, 2009.

SECTION 4. Amends Chapter 420, Government Code, as follows:

[Secs. 420.001-420.002 not included in this bill.]

Sec. 420.003. DEFINITIONS. Defines "minimum services" and "state sexual assault coalition" in this chapter. Redefines "sexual assault examiner" and "sexual assault nurse examiner" in this chapter. Deletes the existing definition of "program" and "service." Makes nonsubstantive changes.

Sec. 420.004. New heading: SEXUAL ASSAULT PREVENTION AND CRISIS SERVICES PROGRAM AND RULES. (a) Provides that the attorney general administers the Sexual Assault Prevention and Crisis Services Program and may delegate a power, duty, or responsibility given to the attorney general under this chapter to a person in the attorney general's office. Deletes existing text providing that the Sexual Assault Prevention and Crisis Service is a division in the office of the attorney general.

(b) Authorizes the attorney general to adopt rules necessary to implement this chapter, rather than authorizing the attorney general to adopt rules relating to assigning service areas, monitoring services, distributing funds, and collecting information from programs in accordance with this chapter.

(c) Requires that a proposed rule regarding attorney general grant funding under this chapter be provided to grant recipients at least 60 days before the date of adoption.

Sec. 420.005. GRANTS. (a) Authorizes the attorney general to award grants to sexual assault programs; state sexual assault coalitions; statewide programs; or organizations for the purposes of conducting activities described by Section 420.008 (Sexual Assault Program Fund). Authorizes grants to be awarded in order to provide services for survivors of sexual assault, promote development of sexual assault programs or to standardize the quality of services for survivors of sexual assault, prevent sexual violence, or conduct activities described by Section 420.008. Deletes existing text authorizing the attorney general to award grants to programs described by Section 420.008. Deletes existing text prohibiting a grant from resulting in the reduction of the financial support a program receives from another source.

(b) Authorizes the attorney general by rule to determine eligibility requirements for any grant provided under this chapter. Authorizes the attorney general to require grant recipients to offer the minimum services for at least nine months before receiving a grant. Deletes existing text authorizing the attorney general by rule to require that to be eligible for a grant, certain programs must provide certain services.

(c) Authorizes the attorney general by rule to require grant recipients under this chapter to submit financial and programmatic reports. Authorizes the attorney general to also require grant recipients to continue to offer the minimum services during the grant period. Deletes existing text requiring the attorney general by rule to require a program receiving a grant to fulfill certain requirements.

(d) Provides that this section does not prohibit grant recipients, rather than a program, from offering any additional service, including a service for sexual assault offenders.

(e) Provides that a grant is governed by Chapter 783 (Uniform Grant and Contract Management) and rules adopted under that chapter.

Deletes existing Subsection (f) authorizing that the receipt of grant money by a program be suspended in case of a dispute about the eligibility of the program to receive the money under this chapter and requiring that a hearing on the dispute be held within a reasonable time, as established by rule by the attorney general.

Sec. 420.006. SPECIAL PROJECTS. Authorizes the attorney general to consult and contract with or award grants to sexual assault programs, state sexual assault coalitions, and statewide programs for special projects, rather than grants to local and statewide programs for special projects, to prevent sexual assault and improve services to survivors.

Sec. 420.007. FUNDING. (a) Makes no changes to this subsection.

(b) Prohibits the attorney general from using more than 15 percent of the annual legislative appropriation to the attorney general, rather than to the service, for the administration of this chapter.

(c) Makes no changes to this subsection.

[Sec. 420.008 not included in this bill.]

Sec. 420.009. REPORT. Requires the attorney general to publish a report, rather than a report on the service, not later than December 10 of each even-numbered year. Requires that the report summarize reports from attorney general grant recipients under this chapter, rather than 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.

Sec. 420.010. CONFIDENTIALITY. Prohibits the attorney general from disclosing any information received from reports, collected case information, or site-monitoring visits that would identify a person working at or receiving services from a sexual assault program.

Sec. 420.011. New heading: ATTORNEY GENERAL CERTIFICATIONS AND RULES. (a) Authorizes the attorney general to adopt rules necessary to implement this section, rather than this chapter. Deletes existing text requiring that a proposed rule be provided to programs receiving grants at least 60 days before the date of adoption.

(b) Requires the attorney general to adopt rules establishing minimum standards for the certification of a sexual assault training program and the renewal of that certification, rather than the renewal of that certification by the program. Requires the attorney general to also adopt rules establishing minimum standards for the suspension, decertification, or probation of a sexual assault training program that violates this chapter.

(c) Requires the attorney general to adopt rules establishing minimum standards for the certification of a sexual assault nurse examiner and the renewal of that certification, rather than the renewal of that certification by the nurse examiner, including standards for examiner training courses and for the interstate reciprocity of sexual assault nurse examiners.

[Secs. 420.012-420.015 not included in this bill.]

SUBCHAPTER B. COLLECTION AND PRESERVATION OF EVIDENCE OF SEX OFFENSE

Sec. 420.031. EVIDENCE COLLECTION PROTOCOL; KITS. (a) Requires the attorney general, rather than the service, to develop and distribute to law enforcement agencies and proper medical personnel an evidence collection protocol that is required to 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. Requires medical or law enforcement personnel collecting evidence of a sexual assault or other sex offense to use an attorney general-approved, rather than a service-approved, evidence collection kit and protocol.

(b) Requires that an evidence collection kit contain items to collect and preserve evidence of a sexual assault or other sex offense and any other items determined necessary for the kit by the attorney general, rather than any 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) Requires the attorney general, rather than the service, in developing the evidence collection kit and protocol, rather than in developing evidence collection procedures and requirements, to consult with individuals and organizations having knowledge and experience in the issues of sexual assault and other sex offenses.

(d)-(f) Makes no changes to these subsections.

[Secs. 420.032-420.033 not included in this bill.]

[SUBCHAPTER B-1 not included in this bill.]

SUBCHAPTER C. ADVOCATES FOR SURVIVORS OF SEXUAL ASSAULT

Sec. 420.051. ADVOCATES FOR SURVIVORS OF SEXUAL ASSAULT. Authorizes an individual to act as an advocate for survivors of sexual assault for the purposes of providing services under Article 56.045 (Presence of Advocate or Representative During Forensic Medical Examination), Code of Criminal Procedure, if the individual has completed a sexual assault training program certified by the attorney general and is employed by or a volunteer of a sexual assault program. Deletes existing text authorizing an individual to act as an advocate for survivors of sexual assault if the individual has completed a sexual assault training program certified by the Department of Public Safety of the State of Texas and is employed by a sexual assault program or provides services through a sexual assault program as a volunteer under the supervision of an advocate.

[SUBCHAPTER D not included in this bill.]

SECTION 5. Effective date: September 1, 2013.