

GOVERNMENT CODE

TITLE 4. EXECUTIVE BRANCH

SUBTITLE B. LAW ENFORCEMENT AND PUBLIC PROTECTION

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 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 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) "Accredited crime laboratory" means a crime laboratory, as that term is defined by Article 38.35, Code of Criminal Procedure, that has been accredited under Article 38.01 of that code.

(1-a) "Active criminal case" means a case:

(A) in which:

(i) a sexual assault or other sex offense has been reported to a law enforcement agency;

(ii) physical evidence of the offense has been submitted to the agency or an accredited crime laboratory under this chapter for analysis; and

(iii) the agency documents that an offense has been committed and reported; and

(B) for which:

(i) the statute of limitations has not run

with respect to the prosecution of the offense; or

(ii) a DNA profile was obtained that is eligible under Section [420.043](#) for comparison with DNA profiles in the state database or CODIS DNA database.

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

(1-c) "Department" means the Department of Public Safety of the State of Texas.

(1-d) "Law enforcement agency" means a state or local law enforcement agency in this state with jurisdiction over the investigation of a sexual assault or other sex offense.

(1-e) "Minimum services" means:

(A) a 24-hour crisis hotline;

(B) crisis intervention;

(C) public education;

(D) advocacy; and

(E) accompaniment to hospitals, law enforcement offices, prosecutors' offices, and courts.

(2) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1173, Sec. 17, eff. September 1, 2013.

(3) "Sex offense" means an offense under Chapter [21](#), Penal Code, for which biological evidence is collected in an evidence collection kit.

(4) "Sexual assault" means any act or attempted act as described by Section [21.02](#), [21.11](#), [22.011](#), [22.021](#), or [25.02](#), Penal Code.

(5) "Sexual assault examiner" means a person who uses an attorney general-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 an attorney general-approved examiner training course described by Section [420.011](#) and who is certified according to minimum standards prescribed by attorney general rule.

(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 to adult survivors of stranger and non-stranger sexual assault.

(7-a) "State sexual assault coalition" means a statewide nonprofit organization that has been identified as a state sexual assault coalition by a state or federal agency authorized to make that designation.

(8) "Survivor" means an individual who is a victim of a sexual assault or other sex offense, 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 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.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.35, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 175 (S.B. 533), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 3, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 17, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1276 (S.B. 1287), Sec. 13, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 5, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 817 (H.B. 2462), Sec. 11, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 822 (H.B. 2706), Sec. 8, eff. September 1, 2021.

Sec. 420.004. ADMINISTRATION OF PROGRAM. The attorney

general shall administer the Sexual Assault Prevention and Crisis Services Program and may delegate a power or duty given to the attorney general under this chapter to an employee in the attorney general's office.

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

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 4, eff. September 1, 2013.

Sec. 420.005. GRANTS. (a) For purposes described by Section 420.008, the attorney general may award grants to sexual assault programs, state sexual assault coalitions, and other appropriate local and statewide programs and organizations related to sexual assault.

(b) The attorney general may by rule:

(1) determine eligibility requirements for any grant awarded under this chapter;

(2) require a grant recipient to offer minimum services for not less than nine months before receiving a grant and to continue to offer minimum services during the grant period; and

(3) require a grant recipient to submit financial and programmatic reports.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1173, Sec. 17, eff. September 1, 2013.

(d) This section does not prohibit a grant recipient 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) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1173, Sec. 17, eff. September 1, 2013.

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

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1206 (H.B. 1751), Sec. 4, eff. January 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 5, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 17, eff. September 1, 2013.

Sec. 420.006. SPECIAL PROJECTS. The attorney general may consult and contract with or award grants to entities described by Section 420.005(a) 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.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 6, eff. September 1, 2013.

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 attorney general under Section 420.008(c)(1) 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 Health and Safety Code Sec. 44.006 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 7, eff. September 1, 2013.

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:

(1) fees and fines collected under:

(A) Article 42A.653(a), Code of Criminal Procedure;

(B) Section 508.189, Government Code; and

(C) Subchapter B, Chapter 102, Business & Commerce Code, and deposited under Section 102.054 of that code; and

(2) administrative penalties collected under Section 51.258, Education Code.

(c) The legislature may appropriate money deposited to the credit of the fund only to:

(1) the attorney general, for:

(A) sexual violence awareness and prevention campaigns;

(B) grants to faith-based groups, independent school districts, and community action organizations for programs for the prevention of sexual assault and programs for victims of human trafficking;

(C) grants for equipment for sexual assault nurse examiner programs, to support the preceptorship of future sexual assault nurse examiners, and for the continuing education of sexual assault nurse examiners;

(D) grants to increase the level of sexual assault services in this state;

(E) grants to support victim assistance coordinators;

(F) grants to support technology in rape crisis centers;

(G) grants to and contracts with a statewide nonprofit organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code of 1986, having as a primary purpose ending sexual violence in this state, for programs for the prevention of sexual violence, outreach programs, and technical assistance to and support of youth and rape crisis centers working to prevent sexual violence;

(H) grants to regional nonprofit providers of

civil legal services to provide legal assistance for sexual assault victims;

(I) grants to prevent sex trafficking and to provide services for victims of sex trafficking; and

(J) grants to carry out the purpose of this chapter, including standardizing the quality of services provided, preventing sexual assault, and improving services to survivors of sexual assault;

(2) the Department of State Health Services, to measure the prevalence of sexual assault in this state and for grants to support programs assisting victims of human trafficking;

(3) the Institute on Domestic Violence and Sexual Assault or the Bureau of Business Research at The University of Texas at Austin, to conduct research on all aspects of sexual assault and domestic violence;

(4) Texas State University, for training and technical assistance to independent school districts for campus safety;

(5) the office of the governor, for grants to support sexual assault and human trafficking prosecution projects;

(6) the department, to support sexual assault training for commissioned officers;

(7) the comptroller's judiciary section, for increasing the capacity of the sex offender civil commitment program;

(8) the Texas Department of Criminal Justice:

(A) for pilot projects for monitoring sex offenders on parole; and

(B) for increasing the number of adult incarcerated sex offenders receiving treatment;

(9) the Texas Juvenile Justice Department, for increasing the number of incarcerated juvenile sex offenders receiving treatment;

(10) the comptroller, for the administration of the fee imposed on sexually oriented businesses under Section [102.052](#), Business & Commerce Code;

(11) the supreme court, to be transferred to the Texas Access to Justice Foundation, or a similar entity, to provide

victim-related legal services to sexual assault victims, including legal assistance with protective orders, relocation-related matters, victim compensation, and actions to secure privacy protections available to victims under law;

(12) any state agency or organization for the purpose of conducting human trafficking enforcement programs; and

(13) any other designated state agency for the purpose of preventing sexual assault or improving services for victims of sexual assault.

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 Health and Safety Code Sec. 44.0061 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1206 (H.B. [1751](#)), Sec. 5, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 11.004, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. [7](#)), Sec. 14, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. [1549](#)), Sec. 95, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. [2299](#)), Sec. 2.44, eff. January 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 958 (S.B. [212](#)), Sec. 3, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. [346](#)), Sec. 4.33, eff. January 1, 2020.

Text of section as amended by Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. [745](#)), Sec. 8

For text of section as amended by Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. [59](#)), Sec. 30, see other Sec. 420.009.

Sec. 420.009. REPORT. Not later than December 10 of each even-numbered year, the attorney general shall publish a report regarding grants awarded under this chapter. The report must



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 Health and Safety Code Sec. 44.007 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 8, eff. September 1, 2013.

Text of section as amended by Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 30

For text of section as amended by Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 8, see other Sec. 420.009.

Sec. 420.009. REPORT. The attorney general shall publish a report on the service not later than December 10 of each 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 Health and Safety Code Sec. 44.007 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 30, eff.

September 1, 2013.

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 sexual assault program.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991.

Renumbered from Health and Safety Code Sec. 44.008 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 9, eff. September 1, 2013.

Sec. 420.011. CERTIFICATION BY ATTORNEY GENERAL; RULES.

(a) The attorney general may adopt rules necessary to implement this chapter. A proposed rule must be provided to grant recipients 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 and the renewal of that certification by the 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 and 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. 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 Health and Safety Code Sec. 44.009 and amended by

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

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 175 (S.B. 533), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 10, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 11, eff. September 1, 2013.

Sec. 420.012. CONSULTATIONS. In implementing this chapter, the attorney general shall consult with:

- (1) state sexual assault coalitions;
- (2) state agencies, task forces, and councils that have duties relating to the prevention, investigation, or prosecution of sexual assault or other sex offenses or services provided to survivors;
- (3) forensic science experts; and
- (4) individuals and organizations having knowledge and experience relating to the issues of sexual assault and other sex offenses.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 411 (H.B. 1590), Sec. 1, eff. June 4, 2019.

Sec. 420.013. DEPOSIT BY COMPTROLLER; AUDIT. (a) The comptroller shall deposit any money received under this subchapter and any money credited to the Sexual Assault Prevention and Crisis Services 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.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 12, eff. September 1, 2013.

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 Chapter 42A, Code of Criminal Procedure, or Chapter 508, Government Code, 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 Chapter 42A, Code of Criminal Procedure, or Chapter 508, Government Code, 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.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. [2299](#)), Sec. 2.45, eff. January 1, 2017.

Sec. 420.015. ASSESSMENT OF SEXUALLY ORIENTED BUSINESS REGULATIONS. The legislature may appropriate funds for a third-party assessment of the sexually oriented business industry in this state and provide recommendations to the legislature on how to further regulate the growth of the sexually oriented business industry in this state.

Added by Acts 2007, 80th Leg., R.S., Ch. 1206 (H.B. [1751](#)), Sec. 6, eff. January 1, 2008.

SUBCHAPTER B. COLLECTION, PRESERVATION, AND TRACKING OF EVIDENCE OF  
SEX OFFENSE

Sec. 420.031. EVIDENCE COLLECTION PROTOCOL; KITS.

(a) The attorney general 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 an attorney general-approved evidence collection kit and protocol.

(b) An evidence collection kit must contain items to collect and preserve evidence of a sexual assault or other sex offense and other items determined necessary for the kit by the attorney general.

(c) In developing the evidence collection kit and protocol, the attorney general shall consult with the individuals and organizations listed in Section [420.012](#).

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1037 (H.B. [616](#)), Sec. 8(3), eff. September 1, 2019.

(e) Evidence collected under this section may not be released unless a signed, written consent to release the evidence is obtained as provided by Section [420.0735](#).

(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 Health and Safety Code Sec. 44.031 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. [1636](#)), Sec. 3, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. [745](#)), Sec. 13, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 411 (H.B. [1590](#)), Sec. 2, eff. June 4, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1037 (H.B. [616](#)), Sec. 8(3), eff. September 1, 2019.

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 (H.B. 546), Sec. 1, eff. May 27, 2005.

Sec. 420.033. CHAIN OF CUSTODY. Medical, law enforcement, department, and laboratory personnel who handle evidence of a sexual assault or other sex offense under this chapter or other law shall maintain the chain of custody of the evidence from the time the evidence is collected until the time the evidence is destroyed.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 4, eff. September 1, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 6, eff. September 1, 2019.

Sec. 420.034. STATEWIDE ELECTRONIC TRACKING SYSTEM.

(a) For purposes of this section, "evidence" means evidence collected during the investigation of a sexual assault or other sex offense, including:

(1) evidence from an evidence collection kit used to collect and preserve evidence of a sexual assault or other sex offense; and

(2) other biological evidence of a sexual assault or other sex offense.

(b) The department shall develop and implement a statewide electronic tracking system for evidence collected in relation to a

sexual assault or other sex offense.

(c) The tracking system must:

(1) include the evidence collection kit and any other items collected during the forensic medical examination in relation to a sexual assault or other sex offense and submitted for a laboratory analysis that is necessary to identify the offender or offenders, regardless of whether the evidence is collected in relation to an individual who is alive or deceased;

(2) track the location and status of each item of evidence through the criminal justice process, including the initial collection of the item of evidence in a forensic medical examination, receipt and storage of the item of evidence at a law enforcement agency, receipt and analysis of the item of evidence at an accredited crime laboratory, and storage and destruction of the item of evidence after the item is analyzed;

(3) allow a facility or entity performing a forensic medical examination of a survivor, law enforcement agency, accredited crime laboratory, prosecutor, or other entity providing a chain of custody for an item of evidence to update and track the status and location of the item; and

(4) allow a survivor to anonymously track or receive updates regarding the status and location of each item of evidence collected in relation to the offense.

(d) The department shall require participation in the tracking system by any facility or entity that collects evidence of a sexual assault or other sex offense or investigates or prosecutes a sexual assault or other sex offense for which evidence has been collected.

(e) Records entered into the tracking system are confidential and are not subject to disclosure under Chapter 552. Records relating to evidence tracked under the system may be accessed only by:

(1) the survivor from whom the evidence was collected;

or

(2) an employee of a facility or entity described by Subsection (d), for purposes of updating or tracking the status or location of an item of evidence.



(f) An employee of the department or a facility or entity described by Subsection (d) may not disclose to a parent or legal guardian of a survivor information that would aid the parent or legal guardian in accessing records relating to evidence tracked under the system if the employee knows or has reason to believe that the parent or legal guardian is a suspect or a suspected accomplice in the commission of the offense with respect to which evidence was collected.

(g) To assist in establishing and maintaining the statewide electronic tracking system under this section, the department may accept gifts, grants, or donations from any person or entity.

(h) Not later than December 1 of each year, the department shall submit a report to the governor, lieutenant governor, speaker of the house of representatives, and members of the legislature identifying the number of evidence collection kits that have not yet been submitted for laboratory analysis or for which the laboratory analysis has not yet been completed, as applicable. The annual report must be titled "Statewide Electronic Tracking System Report" and must be posted on the department's publicly accessible Internet website.

Added by Acts 2017, 85th Leg., R.S., Ch. 1137 (H.B. 281), Sec. 2, eff. September 1, 2017.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 817 (H.B. 2462), Sec. 12, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 817 (H.B. 2462), Sec. 13, eff. September 1, 2021.

Sec. 420.035. EVIDENCE RELEASE. (a) If a health care facility or other entity that performs a medical examination to collect evidence of a sexual assault or other sex offense receives signed, written consent to release the evidence as provided by Section 420.0735, the facility or entity shall:

(1) promptly notify any law enforcement agency investigating the offense; and

(2) not later than two business days after the date the examination is performed, enter the identification number of the

evidence collection kit into the statewide electronic tracking system under Section [420.034](#).

(b) Except as provided by Subsection (c), a law enforcement agency that receives notice from a health care facility or other entity under Subsection (a) shall take possession of the evidence not later than the seventh day after the date the law enforcement agency receives notice.

(c) A law enforcement agency that receives notice from a health care facility or other entity that is located more than 100 miles from the law enforcement agency shall take possession of the evidence not later than the 14th day after the date the law enforcement agency receives notice.

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

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. [8](#)), Sec. 7, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 817 (H.B. [2462](#)), Sec. 14, eff. September 1, 2021.

Sec. 420.036. DUTY TO ENTER CERTAIN INFORMATION INTO VIOLENT CRIMINAL APPREHENSION PROGRAM DATABASE. (a) In this section, "database" means the national database of the Violent Criminal Apprehension Program established and maintained by the Federal Bureau of Investigation, or a successor database.

(b) Each law enforcement agency in this state shall request access from the Federal Bureau of Investigation to enter information into the database.

(c) A law enforcement agency that investigates a sexual assault or other sex offense shall enter into the database the following information regarding the investigation of the sexual assault or other sex offense, as available:

- (1) the suspect's name and date of birth;
- (2) the specific offense being investigated;
- (3) a description of the manner in which the offense was committed, including any pattern of conduct occurring during

the course of multiple offenses suspected to have been committed by the suspect; and

(4) any other information required by the Federal Bureau of Investigation for inclusion in the database.

(d) Information entered into the database under this section is excepted from required disclosure under Chapter 552 in the manner provided by Section 552.108.

Added by Acts 2019, 86th Leg., R.S., Ch. 297 (H.B. 3106), Sec. 2, eff. September 1, 2019.

Redesignated from Government Code, Section 420.035 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(28), eff. September 1, 2021.

#### SUBCHAPTER B-1. ANALYSIS OF EVIDENCE OF SEXUAL ASSAULT OR OTHER SEX OFFENSE

Sec. 420.041. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to physical evidence of a sexual assault or other sex offense that is collected with respect to an active criminal case.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 5, eff. September 1, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 8, eff. September 1, 2019.

Sec. 420.042. ANALYSIS OF EVIDENCE. (a) A law enforcement agency that receives evidence of a sexual assault or other sex offense that is collected under this chapter or other law shall submit that evidence to a public accredited crime laboratory for analysis not later than the 30th day after the date on which that evidence was received.

(b) Repealed by Acts 2021, 87th Leg., R.S., Ch. 817 (H.B. 2462), Sec. 17, eff. September 1, 2021.

(c) If sufficient personnel and resources are available, a public accredited crime laboratory, as soon as practicable but not later than the 90th day after the date on which the laboratory

received the evidence, shall complete its analysis of evidence of a sexual assault or other sex offense that is submitted under this chapter or other law.

(c-1) With respect to a criminal case in which evidence of a sexual assault or other sex offense is collected and the number of offenders is uncertain or unknown, a public accredited crime laboratory shall analyze any evidence of the sexual assault or other sex offense submitted to the laboratory under this chapter or other law that is necessary to identify the offender or offenders.

(d) To ensure the expeditious completion of analyses, the department and other applicable public accredited crime laboratories may contract with private accredited crime laboratories as appropriate to perform those analyses, subject to the necessary quality assurance reviews by the public accredited crime laboratories.

(e) The failure of a law enforcement agency to take possession of evidence of a sexual assault or other sex offense within the period required by Section 420.035 or to submit that evidence within the period required by this section does not affect the authority of:

- (1) the agency to take possession of the evidence;
- (2) the agency to submit the evidence to an accredited crime laboratory for analysis;
- (3) an accredited crime laboratory to analyze the evidence or provide the results of that analysis to appropriate persons; or
- (4) the department or a public accredited crime laboratory authorized under Section 420.043(b) to compare the DNA profile obtained from the biological evidence with DNA profiles in the databases described by Section 420.043(a).

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

(g) A law enforcement agency that fails to submit evidence of a sexual assault or other sex offense to a public accredited crime laboratory within the period required by this section shall provide to the department written documentation of the failure,

including a detailed explanation for the failure. The agency shall submit the documentation required by this subsection on or before the 30th day after the date on which the agency discovers that the evidence was not submitted within the period required by this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 5, eff. September 1, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 8, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 817 (H.B. 2462), Sec. 15, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 817 (H.B. 2462), Sec. 17, eff. September 1, 2021.

Sec. 420.043. DATABASE COMPARISON REQUIRED. (a) Not later than the 30th day after the date an evidence collection kit containing biological evidence has been analyzed by an accredited crime laboratory and any necessary quality assurance reviews have been performed, except as provided by Subsection (b), the department shall compare the DNA profile obtained from the biological evidence with DNA profiles maintained in:

(1) state databases, including the DNA database maintained under Subchapter G, Chapter 411, if the amount and quality of the analyzed sample meet the requirements of the state database comparison policies; and

(2) the CODIS DNA database established by the Federal Bureau of Investigation, if the amount and quality of the analyzed sample meet the requirements of the bureau's CODIS comparison policies.

(b) If the evidence kit containing biological evidence is analyzed by a public accredited crime laboratory, the laboratory, instead of the department, may perform the comparison of DNA profiles required under Subsection (a) provided that:

(1) the laboratory performs the comparison not later than the 30th day after the date the analysis is complete and any necessary quality assurance reviews have been performed;

(2) the law enforcement agency that submitted the evidence collection kit containing biological evidence gives permission; and

(3) the laboratory meets applicable federal and state requirements to access the databases described by Subsection (a).

(c) The department may use appropriated funds to employ personnel and purchase equipment and technology necessary to comply with the requirements of this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 5, eff. September 1, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 8, eff. September 1, 2019.

Sec. 420.044. GRANT FUNDS. The department shall apply for any available federal grant funds applicable to the analysis of evidence collection kits containing biological evidence, including grant money available under the National Institute of Justice's DNA Capacity Enhancement and Backlog Reduction Program.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 8, eff. September 1, 2019.

Sec. 420.046. NONCOMPLIANCE. Failure to comply with the requirements of Subchapter B or this subchapter may be used to determine eligibility for receiving grant funds from the department, the office of the governor, or another state agency.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 8, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 817 (H.B. 2462), Sec. 16, eff. September 1, 2021.

For expiration of this section, see Subsection (f).

Sec. 420.047. AUDIT OF UNANALYZED EVIDENCE OF SEXUAL ASSAULT OR OTHER SEX OFFENSE. (a) A law enforcement agency in possession of an evidence collection kit that has not been submitted for laboratory analysis shall:

(1) not later than December 15, 2019, submit to the department a list of the agency's active criminal cases for which an evidence collection kit collected on or before September 1, 2019, has not yet been submitted for laboratory analysis;

(2) not later than January 15, 2020, and subject to the availability of laboratory storage space, submit to the department or a public accredited crime laboratory, as appropriate, all evidence collection kits pertaining to those active criminal cases that have not yet been submitted for laboratory analysis; and

(3) if the law enforcement agency submits an evidence collection kit under Subdivision (2) to a laboratory other than a department laboratory, notify the department of:

(A) the laboratory to which the evidence collection kit was sent; and

(B) any analysis completed by the laboratory to which the evidence collection kit was sent and the date on which the analysis was completed.

(b) Not later than September 1, 2020, the department shall submit to the governor and the appropriate standing committees of the senate and the house of representatives a report containing:

(1) a projected timeline for the completion of laboratory analyses, in accordance with this chapter, of all unanalyzed evidence collection kits submitted under Subsection (a)(2);

(2) a request for any necessary funding to accomplish the analyses under Subdivision (1), including a request for a grant of money under Article [102.056](#)(e), Code of Criminal Procedure, if money is available under that subsection;

(3) as appropriate, application materials for requests made as required by Subdivision (2); and

(4) if the department determines that outsourcing certain evidence collection kits is necessary for timely analyses of the kits:

(A) a proposal for determining which evidence collection kits should be outsourced; and

(B) a list of laboratories the department determines are capable of completing the outsourced analyses.

(c) Not later than September 1, 2022, and to the extent that funding is available, the department shall, as provided by Sections [420.042](#) and [420.043](#), analyze or contract for the analysis of, and complete the required database comparison, or ensure that a public accredited laboratory completed the comparison, regarding all evidence collection kits submitted to the department under Subsection (a)(2).

(d) Notwithstanding Subsection (c), the department is not required to use under this section in a state fiscal year any amount of money from the state highway fund that exceeds the amount the department has historically used in a state fiscal year to fund laboratory analyses of evidence collection kits under this chapter.

(e) To supplement funding of laboratory analyses under this section, the department may solicit and receive grants, gifts, or donations of money from the federal government or private sources as described by this chapter.

(f) This section expires September 1, 2023.  
Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. [8](#)), Sec. 8, eff. September 1, 2019.

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

Sec. 420.051. ADVOCATES FOR SURVIVORS OF SEXUAL ASSAULT. An individual may act as an advocate for survivors of sexual assault for the purposes of Subchapter [H](#), Chapter [56A](#), Code of Criminal Procedure, if the individual has completed a sexual assault training program certified by the attorney general and is an employee or volunteer of a sexual assault program.

Added by Acts 1997, 75th Leg., ch. 775, Sec. 2, eff. Sept. 1, 1997, as Sec. 44.051 Health and Safety Code.

Renumbered from Health and Safety Code, Section 44.051 by Acts 2007, 80th Leg., Ch. 921 (H.B. [3167](#)), Sec. 17.001, eff. September 9, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. [745](#)), Sec. 14, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. [4173](#)), Sec. 2.45,



eff. January 1, 2021.

SUBCHAPTER D. CONFIDENTIAL COMMUNICATIONS AND RECORDS

Sec. 420.071. CONFIDENTIAL COMMUNICATIONS AND RECORDS; PRIVILEGE. (a) Any communication, including an oral or written communication, between an advocate and a survivor that is made in the course of advising, counseling, or assisting the survivor is confidential.

(b) Any record created by, provided to, or maintained by an advocate is confidential if the record relates to the services provided to a survivor or contains the identity, personal history, or background information of the survivor or information concerning the victimization of the survivor.

(c) In any civil, criminal, administrative, or legislative proceeding, subject to Section 420.072, a survivor has a privilege to refuse to disclose and to prevent another from disclosing, for any purpose, a communication or record that is confidential under this section.

(c-1) Except as provided by this subsection, the unauthorized disclosure of a portion of a confidential communication or record does not constitute a waiver of the privilege provided by Subsection (c). If a portion of a confidential communication or record is disclosed, a party to the relevant court or administrative proceeding may make a motion requesting that the privilege be waived with respect to the disclosed portion. The court or administrative hearing officer, as applicable, may determine that the privilege has been waived only if:

(1) the disclosed portion is relevant to a disputed matter at the proceeding; and

(2) waiver is necessary for a witness to be able to respond to questioning concerning the disclosed portion.

(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,

as Sec. 44.071, Health and Safety Code.

Renumbered from Health and Safety Code, Section 44.071 by Acts 2007, 80th Leg., Ch. 921 (H.B. 3167), Sec. 17.001, eff. September 9, 2007.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 513 (S.B. 295), Sec. 2, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 513 (S.B. 295), Sec. 3, eff. September 1, 2021.

Sec. 420.072. DISCLOSURE OF CONFIDENTIAL COMMUNICATION OR RECORD. (a) A communication or record that is confidential under Section 420.071 may only be disclosed if:

(1) the communication or record is relevant to the claims or defense of an advocate or sexual assault program in a proceeding brought by the survivor against the advocate or program;

(2) the survivor has waived the privilege established under Section 420.071(c) with respect to the communication or record;

(3) the survivor or other appropriate person consents in writing to the disclosure as provided by Section 420.073;

(4) an advocate determines that, unless the disclosure is made, there is a probability of:

(A) imminent physical danger to any person; or

(B) immediate mental or emotional injury to the survivor;

(5) the disclosure is necessary:

(A) to comply with:

(i) Chapter 261, Family Code; or

(ii) Chapter 48, Human Resources Code; or

(B) for a management audit, a financial audit, a program evaluation, or research, except that a report of the audit, evaluation, or research may not directly or indirectly identify a survivor;

(6) the disclosure is made to an employee or volunteer of the sexual assault program after an advocate or a person under the supervision of a counseling supervisor who is participating in

the evaluation or counseling of or the provision of services to the survivor determines that the disclosure is necessary to facilitate the provision of services to the survivor; or

(7) the communication or record is in the possession, custody, or control of the state and a court, after conducting an in camera review of the communication or record, determines the communication or record is exculpatory, provided that the disclosure is limited to the specific portion of the communication or record that was determined to be exculpatory in relation to a defendant in a criminal case.

(b) Regardless of whether written consent has been given by a parent or legal guardian under Section 420.073(a), a person may not disclose a communication or record that is confidential under Section 420.071 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 the person knows or has reason to believe that the parent or guardian of the survivor is a suspect or accomplice in the sexual assault of the survivor.

(c) Notwithstanding Subsections (a) and (b), the Texas Rules of Evidence govern the disclosure of a communication or record that is confidential under Section 420.071 in a criminal or civil proceeding by an expert witness who relies on facts or data from the communication or record to form the basis of the expert's opinion.

Added by Acts 1997, 75th Leg., ch. 775, Sec. 2, eff. Sept. 1, 1997, as Sec. 44.072, Health and Safety Code.

Renumbered from Health and Safety Code, Section 44.072 by Acts 2007, 80th Leg., Ch. 921 (H.B. 3167), Sec. 17.001, eff. September 9, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.002(3), eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 6, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1329 (H.B. 4531), Sec. 3, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 513 (S.B. 295), Sec. 4, eff.

September 1, 2021.

Sec. 420.073. CONSENT FOR RELEASE OF CERTAIN CONFIDENTIAL INFORMATION. (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, 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;
- (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.

(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 sexual assault 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.

(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.

Added by Acts 1997, 75th Leg., ch. 775, Sec. 2, eff. Sept. 1, 1997, as Sec. 44.073, Health and Safety Code.

Renumbered from Health and Safety Code, Section 44.073 by Acts 2007, 80th Leg., Ch. 921 (H.B. 3167), Sec. 17.001, eff. September 9, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 7, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 8, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 15, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1329 (H.B. 4531), Sec. 4, eff. September 1, 2019.

Sec. 420.0735. CONSENT FOR RELEASE OF CERTAIN EVIDENCE.

(a) Consent for the release of evidence contained in an evidence collection kit must be in writing and signed by:

(1) the survivor, if the survivor is 14 years of age or older;

(2) the survivor's parent or guardian or an employee of the Department of Family and Protective Services, if the survivor is younger than 14 years of age; or

(3) the survivor's personal representative, if the survivor is deceased.

(b) For purposes of Subsection (a)(1), 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 with an appointed guardian 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 the investigating law enforcement officer may sign the release.

(c) Consent for release under Subsection (a) applies only to evidence contained in an evidence collection kit and does not affect the confidentiality of any other confidential information

under this chapter.

(d) The written consent must specify:

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

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

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 9, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 16, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.038, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1329 (H.B. 4531), Sec. 5, eff. September 1, 2019.

Sec. 420.074. DISCLOSURE OF PRIVILEGED COMMUNICATIONS OR OTHER INFORMATION IN CRIMINAL PROCEEDING. (a) Subject to the provisions of this chapter, not later than the 30th day before the date of the trial, a defendant in a criminal proceeding may make a motion for disclosure of a communication or record that is privileged under this chapter. The motion must include a supporting affidavit showing reasonable grounds to believe the privileged communication or record contains exculpatory evidence.

(b) The defendant shall serve the motion on the attorney representing the state and the person who holds the privilege with regard to the communication or record at issue.

(c) The court shall order the privileged communication or

record to be produced for the court under seal and shall examine the communication or record in camera if the court finds by a preponderance of the evidence that:

(1) there is a good-faith, specific, and reasonable basis for believing that the privileged communication or record is relevant, material, and exculpatory upon the issue of guilt for the offense charged; and

(2) the privileged communication or record would not be duplicative of other evidence or information available or already obtained by the defendant.

(d) The court shall disclose to the defendant and to the state only the evidence that the court finds to be exculpatory on the issue of guilt for the offense charged.

Added by Acts 1997, 75th Leg., ch. 775, Sec. 2, eff. Sept. 1, 1997, as Sec. 44.074, Health and Safety Code.

Renumbered from Health and Safety Code, Section 44.074 by Acts 2007, 80th Leg., Ch. 921 (H.B. 3167), Sec. 17.001, eff. September 9, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 10, eff. September 1, 2011.

Acts 2021, 87th Leg., R.S., Ch. 513 (S.B. 295), Sec. 5, eff. September 1, 2021.

Sec. 420.075. OFFENSE. A person commits an offense if the person intentionally or knowingly discloses a communication, a record, or evidence 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, as Sec. 44.075, Health and Safety Code.

Renumbered from Health and Safety Code, Section 44.075 by Acts 2007, 80th Leg., Ch. 921 (H.B. 3167), Sec. 17.001, eff. September 9, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 11, eff. September 1, 2011.

SUBCHAPTER E. STATEWIDE TELEHEALTH CENTER FOR SEXUAL ASSAULT  
FORENSIC MEDICAL EXAMINATION

Sec. 420.101. DEFINITIONS. In this subchapter:

(1) "Center" means the statewide telehealth center for sexual assault forensic medical examination.

(2) "Telehealth service" has the meaning assigned by Section 111.001, Occupations Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 9, eff. September 1, 2019.

Added by Acts 2019, 86th Leg., R.S., Ch. 414 (S.B. 71), Sec. 1, eff. September 1, 2019.

Sec. 420.102. ESTABLISHMENT OF CENTER. The attorney general shall establish the statewide telehealth center for sexual assault forensic medical examination to expand access to sexual assault nurse examiners for underserved populations.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 9, eff. September 1, 2019.

Added by Acts 2019, 86th Leg., R.S., Ch. 414 (S.B. 71), Sec. 1, eff. September 1, 2019.

Sec. 420.103. POWERS OF CENTER. (a) In accordance with other law, the center may facilitate in person or through telecommunications or information technology the provision by a sexual assault nurse examiner of:

(1) training or technical assistance to a sexual assault examiner on:

(A) conducting a forensic medical examination on a survivor; and

(B) the use of telehealth services; and

(2) consultation services, guidance, or technical assistance to a sexual assault examiner during a forensic medical examination on a survivor.

(b) With permission from the facility or entity where a forensic medical examination on a survivor is conducted and to the



extent authorized by other law, the center may facilitate the use of telehealth services during a forensic medical examination on a survivor.

(c) The center may deliver other services as requested by the attorney general to carry out the purposes of this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 9, eff. September 1, 2019.

Added by Acts 2019, 86th Leg., R.S., Ch. 414 (S.B. 71), Sec. 1, eff. September 1, 2019.

Sec. 420.104. OPERATION PROTOCOLS REQUIRED. (a) The center and the attorney general shall develop operation protocols to address compliance with applicable laws and rules governing:

- (1) telehealth services;
  - (2) standards of professional conduct for licensure and practice;
  - (3) standards of care;
  - (4) maintenance of records;
  - (5) technology requirements;
  - (6) data privacy and security of patient information;
- and
- (7) the operation of a telehealth center.

(b) The center shall make every effort to ensure the system through which the center operates for the provision of telehealth services meets national standards for interoperability to connect to telehealth systems outside of the center.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 9, eff. September 1, 2019.

Added by Acts 2019, 86th Leg., R.S., Ch. 414 (S.B. 71), Sec. 1, eff. September 1, 2019.

Sec. 420.105. AUTHORIZED CONTRACTS. The attorney general may enter into any contract the attorney general considers necessary to implement this subchapter, including a contract to:

- (1) develop, implement, maintain, or operate the center;
- (2) train or provide technical assistance for health

care professionals on conducting forensic medical examinations and the use of telehealth services; or

(3) provide consultation, guidance, or technical assistance for health care professionals using telehealth services during a forensic medical examination.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 9, eff. September 1, 2019.

Added by Acts 2019, 86th Leg., R.S., Ch. 414 (S.B. 71), Sec. 1, eff. September 1, 2019.

Sec. 420.106. FUNDING. (a) The legislature may appropriate money to the attorney general to establish the center.

(b) The attorney general may provide funds to the center for:

(1) establishing and maintaining the operations of the center;

(2) training conducted by or through the center;

(3) travel expenses incurred by a sexual assault nurse examiner for:

(A) carrying out the nurse's duties under Section 420.103(a); or

(B) testifying as a witness outside the nurse's county of residence;

(4) equipment and software applications for the center; and

(5) any other purpose considered appropriate by the attorney general.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 9, eff. September 1, 2019.

Added by Acts 2019, 86th Leg., R.S., Ch. 414 (S.B. 71), Sec. 1, eff. September 1, 2019.

Sec. 420.107. CONSULTATION REQUIRED. In implementing this subchapter, the attorney general shall consult with persons with expertise in medicine and forensic medical examinations, a statewide sexual assault coalition, a statewide organization with expertise in the operation of children's advocacy programs, and

attorneys with expertise in prosecuting sexual assault offenses.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 9, eff. September 1, 2019.

Added by Acts 2019, 86th Leg., R.S., Ch. 414 (S.B. 71), Sec. 1, eff. September 1, 2019.

Sec. 420.108. RULES. The attorney general may adopt rules as necessary to implement this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 9, eff. September 1, 2019.

Added by Acts 2019, 86th Leg., R.S., Ch. 414 (S.B. 71), Sec. 1, eff. September 1, 2019.