Sec. 420.001. SHORT TITLE. This chapter may be cited as the Sexual Assault Prevention and Crisis Services Act.


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.


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 Section 411.0205.

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

(A) in which:

(i) a sexual assault has been reported to a law enforcement agency; and

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

(B) for which:

(i) the statute of limitations has not run with respect to the prosecution of the sexual assault; 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.

(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(2) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1173, Sec. 17, eff.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(3) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1173, Sec. 17, eff. September 1, 2013.

(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, regardless of whether a report or conviction is made in the incident.


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.

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.


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.


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.
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.

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:

(1) Section 19(e), Article 42.12, Code of Criminal Procedure;

(2) Section 508.189, Government Code; and

(3) Subchapter B, Chapter 102, Business & Commerce Code, and deposited under Section 102.054.

(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; and

(H) grants to regional nonprofit providers of civil legal services to provide legal assistance for sexual assault victims;

(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 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 of Public Safety, 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 Youth Commission, 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; and

(11) the supreme court, to be transferred to the Texas Equal 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.


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.

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.


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.


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. 

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. 
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 persons and organizations having knowledge and experience relating to sexual assault.


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 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.

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.
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 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 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.


Amended by:
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 sexual assault evidence 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.

SUBCHAPTER B-1. ANALYSIS OF SEXUAL ASSAULT EVIDENCE

Sec. 420.041. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to physical evidence of a sexual assault 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.

Sec. 420.042. ANALYSIS OF SEXUAL ASSAULT EVIDENCE. (a) A law enforcement agency that receives sexual assault evidence 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) A person who submits sexual assault evidence to a public accredited crime laboratory under this chapter or other law shall provide the following signed, written certification with each submission: "This evidence is being submitted by (name of person making submission) in connection with a criminal investigation."

(c) If sufficient personnel and resources are available, a public accredited crime laboratory as soon as practicable shall complete its analysis of sexual assault evidence submitted under this chapter or other law.

(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 submit sexual assault evidence within the period required by this section does not affect the authority of:

(1) the agency to submit the evidence to an accredited crime laboratory for analysis; or

(2) an accredited crime laboratory to analyze the evidence or provide the results of that analysis to appropriate persons.

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

Sec. 420.043. DATABASE COMPARISON REQUIRED. On the request of any appropriate person and after an evidence collection kit containing biological evidence has been analyzed by an accredited crime laboratory and any necessary quality assurance reviews have been performed, 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.

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

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 Article 56.045, 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.

SUBCHAPTER D. CONFIDENTIAL COMMUNICATIONS

Sec. 420.071. CONFIDENTIAL COMMUNICATIONS. (a) A communication between an advocate and a survivor, or a person claiming to be a survivor, that is made in the course of providing sexual assault advocacy services to the survivor is confidential and may not be disclosed except as provided by this subchapter.

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

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

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

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

Sec. 420.072. EXCEPTIONS. (a) A communication, a record,
or evidence 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 other appropriate person consents in writing to the disclosure as provided by Section 420.073 or 420.0735, as applicable.

(b) A communication, a record, or evidence 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, record, or evidence 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 authorized to receive the disclosure as a result of written consent obtained under Section 420.073 or 420.0735; 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, a record, or evidence 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, as Sec. 44.072, Health and Safety Code.
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, 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 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.

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.
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 incapacitated person, as that term is defined by Section 601, Texas Probate Code, is effective regardless of whether the incapacitated person's guardian, guardian ad litem, or other legal agent signs the release. If the incapacitated person is unable to provide a signature and the guardian, guardian ad litem, or other legal agent is unavailable 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.

Sec. 420.074. CRIMINAL SUBPOENA. Notwithstanding any other provision of this chapter, a person shall disclose a communication, a record, or evidence 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, 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.

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.