

Texas Association Against Sexual Assault

Legislative Update / 84th Session



TABLE OF CONTENTS

Legislative Update, 84th Session

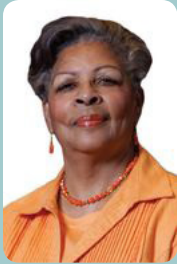
2	Introduction	8	Sex Offender Management
3	TAASA Legislative Agenda Items	12	Campus Sexual Assault
4	Protective Orders	12	Military Sexual Assault
5	Criminal Offenses	13	Data Collection and Research
6	Crime Victims' Rights	13	Family Violence
7	Human Trafficking	15	Child Protection

INTRODUCTION

Thanks to the many legislators, advocates, allied organizations, and TAASA members who helped to pass key legislation this year, the 84th Legislative Session was a resounding success for survivors of sexual assault and rape crisis programs. We are ecstatic to report that following nearly eight years of litigation, the state budget for the 2016-2017 biennium finally includes appropriations of revenue from the Sexually Oriented Business Fee, totaling \$26.1 million for sexual assault programs and an additional \$10 million to establish dedicated statewide civil legal aid for survivors of rape and sexual abuse. In addition, during a session sometimes marked by partisan gridlock, we were heartened time and again by bipartisan efforts to assist sexual assault survivors. This enthusiasm and collaborative spirit resulted not only in the passage of the three bills on TAASA's legislative agenda, but also many others designed to help prevent sexual violence and to assist survivors in obtaining safety, stability, and justice. To all those who helped develop our agenda, analyze proposed legislation, make calls to committee members, testify at hearings, and spread awareness of survivors' needs, you have our wholehearted thanks.

* Please note that the bill summaries included in this publication, although thoroughly researched, are intended only for educational purposes. For legal advice concerning any specific situation, consult an attorney. To read the full statutory text enacted by these bills, visit Texas Legislature Online at www.capitol.state.tx.us.

TAASA LEGISLATIVE AGENDA ITEMS



HB 189

Rep. Senfronia Thompson (D-Houston)

Sen. Van Taylor (R-Plano)

Despite vigorous opposition by the Catholic Church, HB 189 extends the statute of limitation for civil actions arising from sexual abuse of children from 5 years to 15 years. It also eliminates the criminal statute of limitation for sexual assault when there is probable cause to believe the

defendant sexually assaulted 5 or more victims. This bill's civil provisions remove an unrealistic, arbitrary obstacle for victims of childhood trauma to come forward, and the criminal provisions will assist prosecutors in charging repeat offenders whose attacks date back many years.



HB 1446 & 1447

Rep. Tony Dale (R-Cedar Park)

Sen. Jose Rodríguez (D-El Paso)

HB 1446 - Expands eligibility for forensic medical exam reimbursement from Crime Victims' Compensation (CVC) to sexual assault survivors who have not reported to law enforcement. Expands eligibility for CVC's 1-time relocation reimbursement to victims of stalking. Creates the

Governor's Program for Victims of Child Sex Trafficking to assign a caseworker for every child victim of sex trafficking in Texas and to coordinate holistic services for victims to address immediate and long-term medical, psychiatric, psychological, safety, and housing needs.

HB 1447 - Requires, at the time of an offender's conviction for a sex offense or stalking, that the court inform the victim or the parent or guardian of a minor victim of the procedures for obtaining a protective order and for seeking assistance from a prosecutor to apply for a protective order. This bill helps ensure a level of protection for survivors extending beyond the court proceeding and any term of confinement.

PROTECTIVE ORDERS



SB 112 – Sen. Van Taylor & Rep. Senfronia Thompson

Authorizes a magistrate issuing an order for emergency protection, upon finding good cause, to prohibit the arrested party from communicating in any manner with a person protected under the order or a family or household member of a protected person, except through the party's attorney or court appointee.



SB 147 – Sen. José Rodríguez & Rep. Ana Hernandez

Merges two previously separate criminal offenses for Violation of a Family Violence Protective Order and Violation of a Sexual Assault, Stalking, or Human Trafficking Protective Order. This bill strengthens accountability for SAPO violations by eliminating various unintentional discrepancies between the two violation statutes stemming from separate legislative processes during the last 10 years.



SB 737 – Sen. José Rodríguez & Rep. Joe Moody

Requires a magistrate issuing a MOEP to send a copy of the order to the chief of police in the jurisdiction where the victim resides and requires the court clerk to send a copy of the order to the victim's last known address within one business day of issuance. Requires the law enforcement agency in the jurisdiction where the victim resides to enter the order into TCIC within three business days of receipt. Requires the clerk of the issuing court, not later than the next business day following issuance of a protective order, to send a copy of the order to the chief of police, the appropriate constable, and sheriff of the county where the protected person resides and to the Title IV-D agency, if applicable. Also authorizes a magistrate to issue an order for emergency protection to protect a victim of human trafficking.



HB 388 – Rep. Richard Peña Raymond & Sen. Judith Zaffirini

Provides that family violence protective orders that are scheduled to expire within one year of the date the person subject to the order is released from confinement or imprisonment are extended until one year from the date of release, if the person was sentenced to more than five years confinement or imprisonment, or until two years from the date of release, if the person was sentenced to five years or less of confinement or imprisonment.



CRIMINAL OFFENSES



SB 1135 – Sen. Sylvia Garcia & Rep. Mary González

Creates a new criminal offense for the intentional disclosure of visual material depicting a person nude or engaged in sexual conduct, without the depicted person's consent and when the depicted person has a reasonable expectation that the material would remain private. The bill also creates a private civil cause of action for actual damages, exemplary damages, and injunctive relief for conduct constituting this offense.



HB 207 – Rep. Jeff Leach & Sen. John Whitmire

Creates a new offense of Voyeurism which applies if a person, with the intent to arouse or gratify the sexual desire of the actor, observes another person without the other person's consent while the other person is in a dwelling or structure in which the other person has a reasonable expectation of privacy. The offense is a class C misdemeanor, except that it is a class B misdemeanor if the actor has previous been convicted two or more times of the offense, and it is a state jail felony if the victim was a child younger than 14 at the time of the offense.

*I was raped.
speak up. speak out.*



CRIME VICTIMS' RIGHTS



HB 1293 – Rep. Carol Alvarado & Sen. Joan Huffman

Provides for a new right of stalking victims to submit a pseudonym form to the law enforcement agency investigating the offense and have the victim's pseudonym used instead of the victim's name to designate the victim in all public files and records concerning the offense, including police summary reports, press releases, and records of judicial proceedings. Allows a court to order the disclosure of a victim's name, address, or telephone number only upon finding that the information is essential in the trial of the defendant, the identity of the victim is in issue, or the disclosure is in the victim's best interest. Requires a law enforcement agency in receipt of a completed pseudonym form to remove the victim's name from all reports, files, and records in the agency's possession, notify the prosecuting attorney of the victim's election to use a pseudonym, provide the victim a copy of the completed pseudonym form, and maintain the form in a manner that protects the confidentiality of the form's contents. Requires a prosecuting attorney who receives notice of a victim's election to use a pseudonym to ensure the victim is designated by the pseudonym in all proceedings concerning the offense. Provides that stalking victims who submit pseudonym forms may not be required to disclose their names, addresses, telephone numbers in connection with the investigation of the offense. Creates a class C misdemeanor offense for a public servant who knowingly discloses a victim's name, address, or telephone number to a person not involved in the investigation or prosecution of the offense or the defendant's attorney. Provides that confidentiality requirements concerning pseudonym forms do not affect the notification requirements for stalking victims to terminate residential leases pursuant to Section 92.0161, Property Code, except that if a police record documenting the offense designates the tenant by a pseudonym, the tenant must provide a copy of the completed pseudonym form.



HB 1396 – Rep. Paul Workman & Sen. Konni Burton

Requires criminal courts to give preference on their dockets, unless extraordinary circumstances require otherwise, to criminal actions in which the alleged victim is younger than 14 years of age.



HB 4003 – Rep. Jodie Laubenberg & Sen. Van Taylor

Requires that personally identifiable information about a victim of a juvenile’s delinquent conduct contained in a juvenile court record be redacted before the record is disclosed according to any law, except to the extent that the information is necessary for a state agency to provide services to the victim, necessary for law enforcement purposes, or shared only within the statewide juvenile information and case management system.

HUMAN TRAFFICKING



HB 10 – Rep. Senfronia Thompson & Sen. Joan Huffman

Eliminates the statute of limitation for compelling prostitution of a child. Makes solicitation of prostitution a second degree felony if the actor believed the person solicited to be younger than 18 or the person solicited represented to the actor as being younger than 18. Exempts victims of human trafficking from the Crime Victims’ Compensation Program eligibility requirement that a claimant not participate knowingly and willingly in the criminally injurious conduct. Makes solicitation of a minor for prostitution a reportable sex offense. Requires the Texas Education Agency to include reports related to sexual trafficking of children in its policy governing reports of child abuse or neglect. Requires the Supreme Court to include information on human trafficking in its judicial instruction. Adds to the Human Trafficking Prevention Task Force appointed representatives from the Texas Education Agency; the Texas Parks and Wildlife Department; and the Supreme Court of Texas Permanent Judicial Commission for Children, Youth, and Families. Requires the Task Force to develop recommendations on curbing markets for trafficking and on investigating trafficking, and report on state- and local-level policy changes to curb trafficking using the Internet and in sexually oriented businesses. Requires the Texas Alcoholic Beverage Commission, Department of Family and Protective Services, Department of Public Safety, Department of Family and Protective Services, Health and Human Services Commission, Texas Juvenile Justice Department, Office of the Attorney General, and Office of the Governor to designate individuals to coordinate those agencies’ resources to strengthen state and local efforts to prevent human trafficking, assist victims, and investigate/prosecute perpetrators. Requires the Governor to establish a Child Sex Trafficking Prevention Unit within CJD and requires the Unit to coordinate trafficking prevention resources among the OAG, HHSC, DFPS, TJJD, DSHS, TABC, and DPS. Also requires the Unit to collect and distribute research on child sex trafficking to those agencies, refer victims to resources, and develop and report to the Legislature in its biennial report recommendations for improving state efforts to prevent child sex trafficking.



HB 11 – Rep. Greg Bonnen & Sen. Brian Birdwell

Authorizes judges to order a wiretap to obtain evidence of compelling prostitution or aggravated promotion of prostitution. Directs the Office of the Attorney General to establish the transnational and organized crime division and to establish within it a trafficking of persons unit to assist local law enforcement, work with local/state agencies to assist victims, and develop initiatives to improve state coordination of law enforcement.

Creates penalty enhancement for smuggling of persons (20.05) to a first degree felony if the person smuggled becomes a victim of sexual assault or aggravated sexual assault as a result of the offense. Creates new offense of Continuous Smuggling of Persons with enhancement to first degree felony with mandatory sentence of 25-99 years if as a result of the offense the person smuggled becomes a victim of sexual assault or aggravated sexual assault. Creates an enhancement to Engaging in Organizing Criminal Activity to first degree felony with mandatory sentence of 30-99 years if included offense is smuggling of persons resulting in sexual assault or aggravated sexual assault to the person smuggled.



HB 188 – Rep. Senfronia Thompson & Sen. José Menéndez

Reauthorizes the Human Trafficking Prevention Task Force through September 1, 2017. Adds an area of focus to examine criminal cases involving solicitation of children for prostitution.



HB 418 – Rep. Gene Wu & Sen. Joan Huffman

Authorizes a court hearing a child protection case, at any time during an emergency, initial, or full adversarial hearing, to order that the child that is the subject of the hearing be placed in a secure agency foster home or group home, upon a finding that the placement is in the child's best interest and that the child's physical health or safety is in danger because

the child has been recruited, harbored, transported, provided, or obtained for forced labor or commercial sexual activity, including any child who has been a victim of human trafficking. Sets minimum standards to receive child placements for secure agency foster homes and group homes regarding services to victims of



human trafficking.

HB 1217 – Rep. Senfronia Thompson & Sen. Carlos Uresti

Requires the Department of Family and Protective Services (DFPS) to determine, after a missing child returns to his or her care provider, whether the child was a victim of human trafficking while missing. Also directs DFPS to collect information about each child who is a victim of human trafficking while in DFPS's managing conservatorship and make available an annual report containing that information on DFPS's website.



HB 2070 – Rep. Senfronia Thompson & Sen. José Rodríguez

Requires the Department of Family and Protective Services to waive its ordinary public notice and hearing requirements for the licensure of foster group homes or foster family homes for applicants who submit applications to provide trafficking victim services at the applicants' residential operation.



HB 2286 – Rep. Tan Parker & Sen. Konni Burton

Makes eligible for an order of nondisclosure a person adjudicated for an offense of prostitution, who receives community supervision and whose conviction is subsequently set aside by the judge, if the person establishes that she or he committed the offense solely as a victim of human trafficking and has not been convicted or placed on community supervision for any other offense during the person's period of community supervision. Authorizes a criminal justice agency to disclose criminal history information subject to such an order only to other criminal justice agencies for criminal justice purposes.



SEX OFFENDER MANAGEMENT



SB 746 – Sen. John Whitmire & Rep. Sylvester Turner

Creates the Texas Civil Commitment Office (TCCO), eliminates the Office of Violent Sex Offender Management, and charges the TCCO with responsibility for treating, supervising, and developing a sex offender treatment program for committed persons. Eliminates an adjudication of not guilty by reason of insanity as an adjudication that may qualify a person as a repeat sexually violent offender for purposes of civil commitment. Prohibits the

Texas Department of Criminal Justice (TDCJ) from recommending assessment by the multidisciplinary team responsible for assessing repeat sexually violent offenders for an offender scheduled to be released if TDCJ has previously recommended assessment for the person, unless after the previous assessment the person was convicted of a new sexually violent offense or the person's parole or supervision was revoked based on the commission of a new sexually violent offense, failure to adhere to sex offender treatment or supervision requirements, or failure to register as a sex offender. Requires that the multidisciplinary team responsible for assessing repeat sexually violent offenders include a mental health professional from the Department of State Health Services (DSHS), a person from TDCJ's sex offender rehabilitation program, a licensed peace officer from the Department of Public Safety (DPS) with at least five years' experience at DPS, and a licensed sex offender treatment provider from the Council on Sex Offender Treatment. Requires TDCJ and TCCO to provide training to multidisciplinary team members on the civil commitment process. Eliminates joint responsibility between TDCJ and DSHS for assessing behavioral abnormalities among repeat sexually violent offenders and makes TDCJ solely responsible for those assessments. Transfers authority to petition for a finding that a person is a sexually violent predator from the Montgomery County District Court to the court of conviction for the person's most recent sexually violent offense. Authorizes the Special Prosecution Unit, on request by the attorney representing the state in a civil commitment proceeding, to provide legal, financial, and technical assistance. Requires a court in receipt of a petition alleging a person is a sexually violent predator to make a determination on that issue before the offender's sentence discharge date and prohibits the court from continuing a trial beyond the offender's sentence discharge date. Requires any agreed order of civil commitment to require the committed person to submit to the treatment and supervision administered by TCCO. Broadens court authority to order sexually violent predators' residence beyond residential facilities under contract with or approved by TCCO. Eliminates as mandatory court instructions for sexually violent predators a prohibition against contact with potential victims; a prohibition against the person's possession or use of alcohol, inhalants, or controlled substances; and a prohibition against changing the person's in-state residence without prior authorization by TCCO. Requires, prior to a committed person's release from a secure correctional facility, that TDCJ ensure DPS issues a personal identification card to the person and that the person completes an application for social security and veteran's benefits, as applicable. Requires TDCJ to prioritize enrollment



in sex offender treatment programming for any committed person not yet released by TDCJ. Requires TCCO to determine the conditions of supervision and treatment for committed persons, rather than contracting with treatment providers for provision of treatment plans. Authorizes TCCO to require supervised housing for a committed person without a court order. Eliminates DPS's responsibility to coordinate with TCCO for provision of tracking services and transfers that responsibility to TDCJ. Authorizes TCCO to enter into contracts for medical and mental health services and sex offender treatment for committed persons. Requires TCCO to operate one or more facilities for housing committed persons, with one facility designated as an intake and orientation facility for committed persons' release from secure correctional facilities. Establishes a tiered system to provide for transitions from secure correctional facilities to civil commitment to eventual release from commitment, based on the person's behavior and progress in treatment. Establishes committed persons' right to petition for placement in less restrictive housing and supervision based on the best interests of the person and feasibility of community-protection conditions and requires the court to review and issue a ruling on the petition within 60 days of filing. Authorizes TCCO to return a person to more restrictive housing or supervision if it determines the transfer necessary to further treatment and protect the community, and entitles a committed person to petition for judicial review of that determination by TCCO. Requires DSHS to coordinate with TCCO to provide psychiatric and disability services and housing for committed persons with intellectual or developmental disabilities, mental illness, or physical disabilities. Requires that persons released from civil commitment be released to the county in which the person was most recently convicted of a sexually violent offense. Provides that committed persons are responsible for the costs of housing and sex offender treatment. Requires TCCO to adopt administrative rules to determine the conditions of supervision of treatment of committed persons and to develop and implement a tiered programming system.



HB 1144 – Rep. Dawinna Dukes & Sen. Juan Hinojosa

Establishes the Task Force on Improving Outcomes for Juveniles Adjudicated of Sexual Offenses. Directs the task force to examine the adjudication process for juvenile offenders, mental health and other services available to juveniles through the state or local juvenile probation departments, and the sex offender registration process for juveniles. Directs the task force to review the consistency in adjudications and dispositions across the state; training provided to judges, law enforcement, probation, parole, and other service providers on the differences between adult and juvenile offenders regarding the potential for rehabilitation; training provided to service providers regarding methods to reduce recidivism; the effectiveness of juvenile sex offender registration at reducing recidivism; the impact of sex offender registration on juveniles' ability to access education, housing, and employment; the impact of juvenile sex offender registration on the juvenile's family; the current shortage of juvenile sex offender service providers; and the rates of family violence, abuse, or neglect victimization among juvenile sex offenders. Directs the task force to submit a report to the governor, lieutenant governor, speaker of the house, the House Criminal Justice Committee, the Senate Criminal Justice Committee, the Texas Department of Criminal Justice, and the Texas Juvenile Justice Department by December 1, 2016.

CAMPUS SEXUAL ASSAULT



HB 699 – Rep. Alfonso Nevárez & Sen. Carlos Uresti

Requires biennial review of each college and university’s sexual assault policy by each institution and approval by its governing board. Requires institutions’ sexual assault policies to be separate from any other disciplinary or anti-discrimination policies; published in the student handbook, personnel handbook, and on a dedicated web page; and requires all entering freshman and undergraduate transfer students to attend an orientation on the policy during their first terms.

MILITARY SEXUAL ASSAULT



SB 1474 – Sen. Sylvia Garcia & Rep. Joe Farias

Adds to eligibility for county veterans’ treatment court programs defendants who are current or former members of the US armed forces who were victims of sexual assault or sexual harassment that occurred during or resulted from the defendant’s military service.



DATA COLLECTION AND RESEARCH



HB 2455 – Rep. Cindy Burkett & Sen. José Rodríguez

Establishes the Task Force to Promote Uniformity in Collection and Reporting of Information on Family Violence, Sexual Assault, Stalking, and Human Trafficking. Directs the task force to develop recommendations and best practice guidelines for the uniform collection and reporting of information related to family violence, sexual assault, stalking, and human trafficking and the implementation of family violence training and awareness education in public schools. Directs the task force to submit a report by September 1, 2016 to the governor, lieutenant governor, speaker of the house, and all appropriate standing legislative committees.

FAMILY VIOLENCE



SB 817 – Sen. José Rodríguez & Rep. Senfronia Thompson

Adds to the definition of family violence certain use of controlled substances that results in physical, mental, or emotional injury to a child; allowing a child to use controlled substances; causing or allowing a child to engage in conduct constituting sexual performance by a child; or causing or allowing the photography, filming, or depiction of a child that is obscene or pornographic. Requires courts hearing suits affecting the parent-child relationship to consider, in its appointment of joint or sole managing conservators, whether a party engaged in a history or pattern of family violence, a history or pattern of child abuse or neglect, or whether a final protective order was rendered against a party.



HB 19 – Rep. Susan King & Sen. Donna Campbell

Directs the Department of Family and Protective Services to implement pilot programs for preventive services programs for military families who have experienced or are at high risk of family violence, abuse, or neglect and to evaluate the programs' effectiveness.



HB 77 – Rep. Mary González, Sen. Royce West

Directs the Texas Health and Human Services Commission and the Texas Council on Family Violence to jointly conduct a study on family violence activities in the Dallas area, specifically focusing on Dallas Men Against Abuse, to determine whether any aspects of those activities should be implemented at the state level or in other local communities or school districts. Directs the agencies to submit a report to the Lege by Dec. 1, 2016.



HB 2645 – Rep. César Blanco & Sen. Juan Hinojosa

Amends the Code of Criminal Procedure to allow a jury, during a criminal trial involving family violence and subject to the Texas Rules of Evidence, to hear testimony or evidence regarding the nature of the relationship between the defendant and victim. Authorizes law enforcement officers, without additional approval by a court, to arrest persons subject to protective orders who remove, attempt to remove, or otherwise tamper with the normal functioning of a GPS monitoring system in violation of a condition of bond set in a family violence, sexual assault or abuse, or stalking case; a protective order issued under Ch. 7A, Code of Criminal Procedure; a protective order issued under Ch. 85, Family Code; an ex parte protective order that has been served on the person; a magistrate’s order for emergency protection; or an order issued under Sec. 6.504, Family Code.



HB 3327 – Rep. Carol Alvarado, Sen. Joan Huffman

Authorizes the Office of the Attorney General (OAG) to award grants to family violence high-risk teams in local communities, using funds appropriated for that purpose. Directs the OAG to request proposals for those grants and to award grants based on the need for services in the community and the potential effectiveness of the teams.



CHILD PROTECTION



SB 830 – Sen. Lois Kolkhorst, Rep. Harold Dutton

Directs the executive commissioner of the Department of Family and Protective Services (DFPS) to appoint an ombudsman for children and youth in foster care to serve as a neutral party to assist youth in DFPS conservatorship with complaints regarding violations of DFPS policy or procedure, complaints of abuse or neglect, and any systemic issues identified in complaints. Requires DFPS and the ombudsman to develop rules to protect confidentiality, prohibit and resolve retaliation, and report annually to the DFPS executive commissioner on the ombudsman's work.





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