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H.B. No. 1172

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the rights of victims of sexual assault or other  
3 prohibited sexual conduct.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. The heading to Article 15.051, Code of Criminal  
6 Procedure, is amended to read as follows:

7 Art. 15.051. ~~[REQUIRING]~~ POLYGRAPH EXAMINATION OF  
8 COMPLAINANT PROHIBITED.

9 SECTION 2. Article 15.051(a), Code of Criminal Procedure,  
10 is amended to read as follows:

11 (a) A peace officer or an attorney representing the state  
12 may not require, request, or take a polygraph examination of a  
13 person who charges or seeks to charge in a complaint the commission  
14 of an offense under Section 21.02, 21.11, 22.011, 22.021, or 25.02,  
15 Penal Code.

16 SECTION 3. Article 56A.251(a), Code of Criminal Procedure,  
17 is amended to conform to Section 3, Chapter 1037 (H.B. 616), Acts of  
18 the 86th Legislature, Regular Session, 2019, and is further amended  
19 to read as follows:

20 (a) If ~~[Except as provided by Subsection (b), if]~~ a sexual  
21 assault is reported to a law enforcement agency within 120 ~~[96]~~  
22 hours after the assault, the law enforcement agency, with the  
23 consent of the victim of the alleged assault, a person authorized to  
24 act on behalf of the victim, or an employee of the Department of

1 Family and Protective Services, shall request a forensic medical  
2 examination of the victim for use in the investigation or  
3 prosecution of the offense.

4 SECTION 4. The heading to Subchapter H, Chapter 56A, Code of  
5 Criminal Procedure, is amended to read as follows:

6 SUBCHAPTER H. PRESENCE OF ADVOCATE OR REPRESENTATIVE DURING  
7 FORENSIC MEDICAL EXAMINATION OR LAW ENFORCEMENT INTERVIEW

8 SECTION 5. Subchapter H, Chapter 56A, Code of Criminal  
9 Procedure, is amended by adding Article 56A.3515 to read as  
10 follows:

11 Art. 56A.3515. PRESENCE OF SEXUAL ASSAULT PROGRAM ADVOCATE  
12 OR OTHER VICTIM'S REPRESENTATIVE DURING LAW ENFORCEMENT INTERVIEW.

13 (a) Before conducting an investigative interview with a victim  
14 reporting a sexual assault, other than a victim who is a minor as  
15 defined by Section 101.003, Family Code, the peace officer  
16 conducting the interview shall offer the victim the opportunity to  
17 have an advocate from a sexual assault program, as defined by  
18 Section 420.003, Government Code, be present with the victim during  
19 the interview, if the advocate is available at the time of the  
20 interview. The advocate must have completed a sexual assault  
21 training program described by Section 420.011(b), Government Code.

22 (b) If an advocate described by Subsection (a) is not  
23 available at the time of the interview, the peace officer  
24 conducting the interview shall offer the victim the opportunity to  
25 have a crime victim liaison from the law enforcement agency, a peace  
26 officer who has completed a sexual assault training program  
27 described by Section 420.011(b), Government Code, or a victim's

1 assistance counselor from a state or local agency or other entity be  
2 present with the victim during the interview.

3 (c) An advocate, liaison, officer, or counselor authorized  
4 to be present during an interview under this article may only  
5 provide the victim reporting the sexual assault with:

6 (1) counseling and other support services; and

7 (2) information regarding the rights of crime victims  
8 under Subchapter B.

9 (d) The advocate, liaison, officer, or counselor and the  
10 sexual assault program or other entity providing the advocate,  
11 liaison, officer, or counselor may not delay or otherwise impede  
12 the interview process.

13 (e) A sexual assault program providing an advocate under  
14 Subsection (a) shall pay all costs associated with providing the  
15 advocate. An entity providing a victim's assistance counselor  
16 under Subsection (b) shall pay all costs associated with providing  
17 the counselor.

18 (f) A peace officer or law enforcement agency that provides  
19 an advocate, liaison, officer, or counselor with access to a victim  
20 reporting a sexual assault is not subject to civil or criminal  
21 liability for providing that access.

22 SECTION 6. Article 56A.352, Code of Criminal Procedure, is  
23 amended by amending Subsections (b) and (d) and adding Subsection  
24 (b-1) to read as follows:

25 (b) If a victim alleging to have sustained injuries as the  
26 victim of a sexual assault was confined in a penal institution at  
27 the time of the alleged assault, the penal institution shall

1 provide, at the victim's request, a representative to be present  
2 with the victim:

3 (1) at any forensic medical examination conducted for  
4 the purpose of collecting and preserving evidence related to the  
5 investigation or prosecution of the alleged assault; and

6 (2) during an investigative interview conducted by a  
7 peace officer in relation to the investigation of the alleged  
8 assault.

9 (b-1) The representative provided by the penal institution  
10 under Subsection (b) must:

11 (1) be approved by the penal institution; and

12 (2) be a:

13 (A) psychologist;

14 (B) sociologist;

15 (C) chaplain;

16 (D) social worker;

17 (E) case manager; or

18 (F) volunteer who has completed a sexual assault  
19 training program described by Section 420.011(b), Government Code.

20 (d) A representative may not delay or otherwise impede:

21 (1) the screening or stabilization of an emergency  
22 medical condition; or

23 (2) the interview process.

24 SECTION 7. The following provisions of the Code of Criminal  
25 Procedure are repealed:

26 (1) Articles 15.051(b) and (c); and

27 (2) Article 56A.251(b).

1           SECTION 8. To the extent of any conflict, this Act prevails  
2 over another Act of the 87th Legislature, Regular Session, 2021,  
3 relating to nonsubstantive additions to and corrections in enacted  
4 codes.

5           SECTION 9. This Act takes effect September 1, 2021.