

1-1 By: Howard, et al. H.B. No. 1172  
 1-2 (Senate Sponsor - Zaffirini, Bettencourt)  
 1-3 (In the Senate - Received from the House April 19, 2021;  
 1-4 April 19, 2021, read first time and referred to Committee on  
 1-5 Criminal Justice; May 20, 2021, reported adversely, with favorable  
 1-6 Committee Substitute by the following vote: Yeas 6, Nays 0;  
 1-7 May 20, 2021, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15	X			
1-16	X			

1-17 COMMITTEE SUBSTITUTE FOR H.B. No. 1172 By: Huffman

1-18 A BILL TO BE ENTITLED  
 1-19 AN ACT

1-20 relating to the rights of victims of sexual assault or other  
 1-21 prohibited sexual conduct.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. The heading to Article 15.051, Code of Criminal  
 1-24 Procedure, is amended to read as follows:

1-25 Art. 15.051. ~~[REQUIRING]~~ POLYGRAPH EXAMINATION OF  
 1-26 COMPLAINANT PROHIBITED.

1-27 SECTION 2. Article 15.051(a), Code of Criminal Procedure,  
 1-28 is amended to read as follows:

1-29 (a) A peace officer or an attorney representing the state  
 1-30 may not require, request, or take a polygraph examination of a  
 1-31 person who charges or seeks to charge in a complaint the commission  
 1-32 of an offense under Section 21.02, 21.11, 22.011, 22.021, or 25.02,  
 1-33 Penal Code.

1-34 SECTION 3. Article 56A.251(a), Code of Criminal Procedure,  
 1-35 is amended to conform to Section 3, Chapter 1037 (H.B. 616), Acts of  
 1-36 the 86th Legislature, Regular Session, 2019, and is further amended  
 1-37 to read as follows:

1-38 (a) If ~~[Except as provided by Subsection (b), if]~~ a sexual  
 1-39 assault is reported to a law enforcement agency within 120 ~~[96]~~  
 1-40 hours after the assault, the law enforcement agency, with the  
 1-41 consent of the victim of the alleged assault, a person authorized to  
 1-42 act on behalf of the victim, or an employee of the Department of  
 1-43 Family and Protective Services, shall request a forensic medical  
 1-44 examination of the victim for use in the investigation or  
 1-45 prosecution of the offense.

1-46 SECTION 4. The heading to Subchapter H, Chapter 56A, Code of  
 1-47 Criminal Procedure, is amended to read as follows:

1-48 SUBCHAPTER H. PRESENCE OF ADVOCATE OR REPRESENTATIVE DURING  
 1-49 FORENSIC MEDICAL EXAMINATION OR LAW ENFORCEMENT INTERVIEW

1-50 SECTION 5. Subchapter H, Chapter 56A, Code of Criminal  
 1-51 Procedure, is amended by adding Article 56A.3515 to read as  
 1-52 follows:

1-53 Art. 56A.3515. PRESENCE OF SEXUAL ASSAULT PROGRAM ADVOCATE  
 1-54 OR OTHER VICTIM'S REPRESENTATIVE DURING LAW ENFORCEMENT INTERVIEW.

1-55 (a) Before conducting an investigative interview with a victim  
 1-56 reporting a sexual assault, other than a victim who is a minor as  
 1-57 defined by Section 101.003, Family Code, the peace officer  
 1-58 conducting the interview shall offer the victim the opportunity to  
 1-59 have an advocate from a sexual assault program, as defined by  
 1-60 Section 420.003, Government Code, be present with the victim during

2-1 the interview, if the advocate is available at the time of the  
2-2 interview. The advocate must have completed a sexual assault  
2-3 training program described by Section 420.011(b), Government Code.

2-4 (b) If an advocate described by Subsection (a) is not  
2-5 available at the time of the interview, the peace officer  
2-6 conducting the interview shall offer the victim the opportunity to  
2-7 have a crime victim liaison from the law enforcement agency, a peace  
2-8 officer who has completed a sexual assault training program  
2-9 described by Section 420.011(b), Government Code, or a victim's  
2-10 assistance counselor from a state or local agency or other entity be  
2-11 present with the victim during the interview.

2-12 (b-1) The peace officer conducting an investigative  
2-13 interview described by Subsection (a) shall make a good faith  
2-14 effort to comply with Subsections (a) and (b), except that the  
2-15 officer's compliance with those subsections may not unreasonably  
2-16 delay or otherwise impede the interview process.

2-17 (c) An advocate, liaison, officer, or counselor authorized  
2-18 to be present during an interview under this article may only  
2-19 provide the victim reporting the sexual assault with:

- 2-20 (1) counseling and other support services; and
  - 2-21 (2) information regarding the rights of crime victims
- 2-22 under Subchapter B.

2-23 (d) The advocate, liaison, officer, or counselor and the  
2-24 sexual assault program or other entity providing the advocate,  
2-25 liaison, officer, or counselor may not delay or otherwise impede  
2-26 the interview process.

2-27 (e) A sexual assault program providing an advocate under  
2-28 Subsection (a) shall pay all costs associated with providing the  
2-29 advocate. An entity providing a victim's assistance counselor  
2-30 under Subsection (b) shall pay all costs associated with providing  
2-31 the counselor.

2-32 (f) A peace officer or law enforcement agency that provides  
2-33 an advocate, liaison, officer, or counselor with access to a victim  
2-34 reporting a sexual assault is not subject to civil or criminal  
2-35 liability for providing that access.

2-36 SECTION 6. Article 56A.352, Code of Criminal Procedure, is  
2-37 amended by amending Subsections (b) and (d) and adding Subsection  
2-38 (b-1) to read as follows:

2-39 (b) If a victim alleging to have sustained injuries as the  
2-40 victim of a sexual assault was confined in a penal institution at  
2-41 the time of the alleged assault, the penal institution shall  
2-42 provide, at the victim's request, a representative to be present  
2-43 with the victim:

- 2-44 (1) at any forensic medical examination conducted for  
2-45 the purpose of collecting and preserving evidence related to the  
2-46 investigation or prosecution of the alleged assault; and
- 2-47 (2) during an investigative interview conducted by a  
2-48 peace officer in relation to the investigation of the alleged  
2-49 assault.

2-50 (b-1) The representative provided by the penal institution  
2-51 under Subsection (b) must:

- 2-52 (1) be approved by the penal institution; and
- 2-53 (2) be a:
  - 2-54 (A) psychologist;
  - 2-55 (B) sociologist;
  - 2-56 (C) chaplain;
  - 2-57 (D) social worker;
  - 2-58 (E) case manager; or
  - 2-59 (F) volunteer who has completed a sexual assault  
2-60 training program described by Section 420.011(b), Government Code.

2-61 (d) A representative may not delay or otherwise impede:  
2-62 (1) the screening or stabilization of an emergency  
2-63 medical condition; or  
2-64 (2) the interview process.

2-65 SECTION 7. The following provisions of the Code of Criminal  
2-66 Procedure are repealed:

- 2-67 (1) Articles 15.051(b) and (c); and
- 2-68 (2) Article 56A.251(b).

2-69 SECTION 8. To the extent of any conflict, this Act prevails

3-1 over another Act of the 87th Legislature, Regular Session, 2021,  
3-2 relating to nonsubstantive additions to and corrections in enacted  
3-3 codes.

3-4 SECTION 9. This Act takes effect September 1, 2021.

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