

By: Paxton, et al.

S.B. No. 1573

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the reporting of sexual assault and other sex offenses
3 and to the collection, analysis, tracking, and preservation of
4 evidence of those offenses.

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

6 SECTION 1. Articles 21.31(a), (c), and (d), Code of
7 Criminal Procedure, are amended to read as follows:

8 (a) A person who is indicted for or who waives indictment
9 for an offense under Section 21.02, 21.11(a)(1), 22.011, or 22.021,
10 Penal Code, shall, at the direction of the court on the court's own
11 motion or on the request of the victim of the reported [~~alleged~~]
12 offense, undergo a standard diagnostic test approved by the United
13 States Food and Drug Administration for human immunodeficiency
14 virus (HIV) infection and other sexually transmitted diseases. If
15 the person refuses to submit voluntarily to the test, the court
16 shall require the person to submit to the test. On request of the
17 victim of the reported [~~alleged~~] offense, the court shall order the
18 defendant to undergo the test not later than 48 hours after an
19 indictment for the offense is presented against the defendant or
20 the defendant waives indictment. Except as provided by Subsection
21 (b-1), the court may require a defendant previously required under
22 this article to undergo a diagnostic test on indictment for an
23 offense to undergo a subsequent test only after conviction of the
24 offense. A person performing a test under this subsection shall

1 make the test results available to the local health authority, and
2 the local health authority shall be required to make the
3 notification of the test results to the victim of the reported
4 ~~[alleged]~~ offense and to the defendant.

5 (c) The state may not use the fact that a test was performed
6 on a person under Subsection (a) or use the results of a test
7 conducted under Subsection (a) in any criminal proceeding arising
8 out of the reported ~~[alleged]~~ offense.

9 (d) Testing under this article shall be conducted in
10 accordance with written infectious disease control protocols
11 adopted by the Texas Board of Health that clearly establish
12 procedural guidelines that provide criteria for testing and that
13 respect the rights of the person accused and any victim of the
14 reported ~~[alleged]~~ offense.

15 SECTION 2. Article 38.07, Code of Criminal Procedure, is
16 amended to read as follows:

17 Art. 38.07. TESTIMONY IN CORROBORATION OF VICTIM OF SEXUAL
18 OFFENSE. (a) A conviction under Chapter 21, Section 20A.02(a)(3),
19 (4), (7), or (8), Section 22.011, or Section 22.021, Penal Code, is
20 supportable on the uncorroborated testimony of the victim of the
21 sexual offense if the victim informed any person, other than the
22 defendant, of the reported ~~[alleged]~~ offense within one year after
23 the date on which the reported incident ~~[offense is alleged to have]~~
24 occurred.

25 (b) The requirement that the victim inform another person of
26 an ~~[alleged]~~ offense as described by Subsection (a) does not apply
27 if at the time of the ~~[alleged]~~ offense the victim was a person:

1 (1) 17 years of age or younger;

2 (2) 65 years of age or older; or

3 (3) 18 years of age or older who by reason of age or
4 physical or mental disease, defect, or injury was substantially
5 unable to satisfy the person's need for food, shelter, medical
6 care, or protection from harm.

7 SECTION 3. Article 56A.051(a), Code of Criminal Procedure,
8 is amended to read as follows:

9 (a) A victim, guardian of a victim, or close relative of a
10 deceased victim is entitled to the following rights within the
11 criminal justice system:

12 (1) the right to receive from a law enforcement agency
13 adequate protection from harm and threats of harm arising from
14 cooperation with prosecution efforts;

15 (2) the right to have the magistrate consider the
16 safety of the victim or the victim's family in setting the amount of
17 bail for the defendant;

18 (3) if requested, the right to be informed:

19 (A) by the attorney representing the state of
20 relevant court proceedings, including appellate proceedings, and
21 to be informed if those proceedings have been canceled or
22 rescheduled before the event; and

23 (B) by an appellate court of the court's
24 decisions, after the decisions are entered but before the decisions
25 are made public;

26 (4) when requested, the right to be informed:

27 (A) by a peace officer concerning the defendant's

1 right to bail and the procedures in criminal investigations; and

2 (B) by the office of the attorney representing
3 the state concerning the general procedures in the criminal justice
4 system, including general procedures in guilty plea negotiations
5 and arrangements, restitution, and the appeals and parole process;

6 (5) the right to provide pertinent information to a
7 community supervision and corrections department conducting a
8 presentencing investigation concerning the impact of the offense on
9 the victim and the victim's family by testimony, written statement,
10 or any other manner before any sentencing of the defendant;

11 (6) the right to receive information regarding
12 compensation to victims of crime as provided by Chapter 56B,
13 including information related to the costs that may be compensated
14 under that chapter and the amount of compensation, eligibility for
15 compensation, and procedures for application for compensation
16 under that chapter, the payment for a forensic medical examination
17 under Article 56A.252 for a victim of a reported [~~an alleged~~] sexual
18 assault, and when requested, to referral to available social
19 service agencies that may offer additional assistance;

20 (7) the right to:

21 (A) be informed, on request, of parole
22 procedures;

23 (B) participate in the parole process;

24 (C) provide to the board for inclusion in the
25 defendant's file information to be considered by the board before
26 the parole of any defendant convicted of any offense subject to this
27 chapter; and

1 (D) be notified, if requested, of parole
2 proceedings concerning a defendant in the victim's case and of the
3 defendant's release;

4 (8) the right to be provided with a waiting area,
5 separate or secure from other witnesses, including the defendant
6 and relatives of the defendant, before testifying in any proceeding
7 concerning the defendant; if a separate waiting area is not
8 available, other safeguards should be taken to minimize the
9 victim's contact with the defendant and the defendant's relatives
10 and witnesses, before and during court proceedings;

11 (9) the right to the prompt return of any of the
12 victim's property that is held by a law enforcement agency or the
13 attorney representing the state as evidence when the property is no
14 longer required for that purpose;

15 (10) the right to have the attorney representing the
16 state notify the victim's employer, if requested, that the victim's
17 cooperation and testimony is necessary in a proceeding that may
18 require the victim to be absent from work for good cause;

19 (11) the right to request victim-offender mediation
20 coordinated by the victim services division of the department;

21 (12) the right to be informed of the uses of a victim
22 impact statement and the statement's purpose in the criminal
23 justice system as described by Subchapter D, to complete the victim
24 impact statement, and to have the victim impact statement
25 considered:

26 (A) by the attorney representing the state and
27 the judge before sentencing or before a plea bargain agreement is

1 accepted; and

2 (B) by the board before a defendant is released
3 on parole;

4 (13) for a victim of an assault or sexual assault who
5 is younger than 17 years of age or whose case involves family
6 violence, as defined by Section 71.004, Family Code, the right to
7 have the court consider the impact on the victim of a continuance
8 requested by the defendant; if requested by the attorney
9 representing the state or by the defendant's attorney, the court
10 shall state on the record the reason for granting or denying the
11 continuance; and

12 (14) if the offense is a capital felony, the right to:

13 (A) receive by mail from the court a written
14 explanation of defense-initiated victim outreach if the court has
15 authorized expenditures for a defense-initiated victim outreach
16 specialist;

17 (B) not be contacted by the victim outreach
18 specialist unless the victim, guardian, or relative has consented
19 to the contact by providing a written notice to the court; and

20 (C) designate a victim service provider to
21 receive all communications from a victim outreach specialist acting
22 on behalf of any person.

23 SECTION 4. Article 56A.251, Code of Criminal Procedure, is
24 amended to conform to Section 3, Chapter 1037 (H.B. 616), Acts of
25 the 86th Legislature, Regular Session, 2019, and is further amended
26 to read as follows:

27 Art. 56A.251. REQUEST FOR FORENSIC MEDICAL EXAMINATION.

1 (a) If [~~Except as provided by Subsection (b), if~~] a sexual assault
2 is reported to a law enforcement agency within 120 [~~96~~] hours after
3 the assault, the law enforcement agency, with the consent of the
4 victim of the reported [~~alleged~~] assault, a person authorized to
5 act on behalf of the victim, or an employee of the Department of
6 Family and Protective Services, shall request a forensic medical
7 examination of the victim for use in the investigation or
8 prosecution of the offense.

9 (b) If a sexual assault is not reported within the period
10 described by Subsection (a) and the victim is a minor as defined by
11 Section 101.003, Family Code, on receiving the consent described by
12 Subsection (a) or the consent described by Section 32.003 or
13 32.005, Family Code, a law enforcement agency shall request a
14 forensic medical examination of the victim for use in the
15 investigation or prosecution of the offense [~~A law enforcement~~
16 ~~agency may decline to request a forensic medical examination under~~
17 ~~Subsection (a) only if:~~

18 [~~(1) the person reporting the sexual assault has made one or~~
19 ~~more false reports of sexual assault to any law enforcement agency;~~
20 ~~and~~

21 [~~(2) there is no other evidence to corroborate the current~~
22 ~~allegations of sexual assault]~~.

23 (c) If a sexual assault is not reported within the period
24 described by Subsection (a) and the victim is not a minor as defined
25 by Section 101.003, Family Code, on receiving the consent described
26 by Subsection (a), [~~that subsection~~] a law enforcement agency may
27 request a forensic medical examination of a victim of a reported [~~an~~

1 ~~alleged~~] sexual assault for use in the investigation or prosecution
2 of the offense if:

3 (1) based on the circumstances of the reported
4 assault, the agency believes a forensic medical examination would
5 further that investigation or prosecution; or

6 (2) after a medical evaluation by a physician, sexual
7 assault examiner, or sexual assault nurse examiner, the physician
8 or examiner notifies the agency that a forensic medical examination
9 should be conducted [~~as considered appropriate by the agency~~].

10 (d) If a sexual assault is reported to a law enforcement
11 agency as provided by Subsection (a), (b), or (c), the law
12 enforcement agency shall document, in the form and manner required
13 by the attorney general, whether the agency requested a forensic
14 medical examination. The law enforcement agency shall:

15 (1) provide the documentation of the agency's decision
16 regarding a request for a forensic medical examination to:

17 (A) the health care facility and the physician,
18 sexual assault examiner, or sexual assault nurse examiner, as
19 applicable, who provides services to the victim that are related to
20 the sexual assault; and

21 (B) the victim or the person who consented to the
22 forensic medical examination on behalf of the victim; and

23 (2) maintain the documentation of the agency's
24 decision in accordance with the agency's record retention policies.

25 SECTION 5. Article [56A.303](#), Code of Criminal Procedure, is
26 amended to conform to Section 4, Chapter 1037 (H.B. 616), Acts of
27 the 86th Legislature, Regular Session, 2019, and is further amended

1 to read as follows:

2 Art. 56A.303. FORENSIC MEDICAL EXAMINATION. (a) In
3 accordance with Subchapter B, Chapter 420, Government Code, and
4 except as provided by Subsection (b), a health care facility shall
5 conduct a forensic medical examination of a victim of a a [~~an alleged~~]
6 sexual assault if:

7 (1) the victim arrives at the facility within 120 [~~96~~]
8 hours after the assault occurred;

9 (2) the victim consents to the examination; and

10 (3) at the time of the examination the victim has not
11 reported the assault to a law enforcement agency.

12 (b) If a health care facility does not provide diagnosis or
13 treatment services to victims of sexual assault, the facility shall
14 refer a victim of a a [~~an alleged~~] sexual assault who seeks a forensic
15 medical examination under Subsection (a) to a health care facility
16 that provides services to those victims.

17 (c) A victim of a a [~~an alleged~~] sexual assault may not be
18 required to participate in the investigation or prosecution of an
19 offense as a condition of receiving a forensic medical examination
20 under this article.

21 SECTION 6. (a) Articles 56A.304(a) and (c), Code of
22 Criminal Procedure, are amended to read as follows:

23 (a) The department shall pay the appropriate fees, as set by
24 attorney general rule, for the forensic portion of a forensic
25 medical examination conducted under Article 56A.303(a) and for the
26 evidence collection kit if a physician, sexual assault examiner, or
27 sexual assault nurse examiner conducts the forensic portion of the

1 examination within 120 [~~96~~] hours after the [~~alleged~~] sexual
2 assault occurred.

3 (b) A victim of a [~~an-alleged~~] sexual assault may not be
4 required to pay for:

5 (1) the forensic portion of the forensic medical
6 examination; or

7 (2) the evidence collection kit.

8 (c) It is the intent of the 87th Legislature, Regular
9 Session, 2021, that the amendments made by this section be
10 harmonized with another Act of the 87th Legislature, Regular
11 Session, 2021, relating to nonsubstantive additions to and
12 corrections in enacted codes.

13 SECTION 7. Article [56A.307](#), Code of Criminal Procedure, is
14 amended to read as follows:

15 Art. 56A.307. PROCEDURES FOR SUBMISSION OR COLLECTION OF
16 ADDITIONAL EVIDENCE. The department, consistent with Chapter [420](#),
17 Government Code, may develop procedures regarding the submission or
18 collection of additional evidence of a [~~an-alleged~~] sexual assault
19 other than through a forensic medical examination as described by
20 Article [56A.303](#)(a).

21 SECTION 8. Article [56A.351](#)(a), Code of Criminal Procedure,
22 is amended to read as follows:

23 (a) Before conducting a forensic medical examination of a
24 victim who consents to the examination for the collection of
25 evidence for a [~~an-alleged~~] sexual assault, the physician or other
26 medical services personnel conducting the examination shall offer
27 the victim the opportunity to have an advocate from a sexual assault

1 program as defined by Section 420.003, Government Code, be present
2 with the victim during the examination, if the advocate is
3 available at the time of the examination. The advocate must have
4 completed a sexual assault training program described by Section
5 420.011(b), Government Code.

6 SECTION 9. Article 56A.352(b), Code of Criminal Procedure,
7 is amended to read as follows:

8 (b) If a victim reporting [~~alleging~~] to have sustained
9 injuries as the victim of a sexual assault was confined in a penal
10 institution at the time of the reported [~~alleged~~] assault, the
11 penal institution shall provide, at the victim's request, a
12 representative to be present with the victim at any forensic
13 medical examination conducted for the purpose of collecting and
14 preserving evidence related to the investigation or prosecution of
15 the reported [~~alleged~~] assault. The representative must:

- 16 (1) be approved by the penal institution; and
17 (2) be a:
18 (A) psychologist;
19 (B) sociologist;
20 (C) chaplain;
21 (D) social worker;
22 (E) case manager; or
23 (F) volunteer who has completed a sexual assault
24 training program described by Section 420.011(b), Government Code.

25 SECTION 10. Article 56A.401, Code of Criminal Procedure, is
26 amended to read as follows:

27 Art. 56A.401. NOTIFICATION OF RIGHTS. At the initial

1 contact or at the earliest possible time after the initial contact
2 between a victim of a reported offense and the law enforcement
3 agency having the responsibility for investigating the offense, the
4 agency shall provide the victim a written notice containing:

5 (1) information about the availability of emergency
6 and medical services, if applicable;

7 (2) information about the rights of crime victims
8 under Subchapter B;

9 (3) notice that the victim has the right to receive
10 information regarding compensation to victims of crime as provided
11 by Chapter 56B, including information about:

12 (A) the costs that may be compensated under that
13 chapter and the amount of compensation, eligibility for
14 compensation, and procedures for application for compensation
15 under that chapter;

16 (B) the payment for a forensic medical
17 examination under Article 56A.252 for a victim of a reported [~~an~~
18 ~~alleged~~] sexual assault; and

19 (C) referral to available social service
20 agencies that may offer additional assistance;

21 (4) the name, address, and phone number of the law
22 enforcement agency's crime victim liaison;

23 (5) the name, address, and phone number of the victim
24 assistance coordinator of the office of the attorney representing
25 the state; and

26 (6) the following statement:

27 "You may call the law enforcement agency's telephone number

1 for the status of the case and information about victims' rights."

2 SECTION 11. Article 56A.451(a), Code of Criminal Procedure,
3 is amended to read as follows:

4 (a) Not later than the 10th day after the date that an
5 indictment or information is returned against a defendant for an
6 offense, the attorney representing the state shall give to each
7 victim of the offense a written notice containing:

8 (1) the case number and assigned court for the case;

9 (2) a brief general statement of each procedural stage
10 in the processing of a criminal case, including bail, plea
11 bargaining, parole restitution, and appeal;

12 (3) suggested steps the victim may take if the victim
13 is subjected to threats or intimidation;

14 (4) the name, address, and phone number of the local
15 victim assistance coordinator; and

16 (5) notification of:

17 (A) the rights and procedures under this chapter,
18 Chapter 56B, and Subchapter B, Chapter 58;

19 (B) the right to file a victim impact statement
20 with the office of the attorney representing the state and the
21 department;

22 (C) the right to receive information regarding
23 compensation to victims of crime as provided by Chapter 56B,
24 including information about:

25 (i) the costs that may be compensated under
26 that chapter, eligibility for compensation, and procedures for
27 application for compensation under that chapter;

1 (ii) the payment for a forensic medical
2 examination under Article 56A.252 for a victim of a reported [~~an~~
3 ~~alleged~~] sexual assault; and

4 (iii) referral to available social service
5 agencies that may offer additional assistance; and

6 (D) the right of a victim, guardian of a victim,
7 or close relative of a deceased victim, as defined by Section
8 508.117, Government Code, to appear in person before a member of the
9 board as provided by Section 508.153, Government Code.

10 SECTION 12. Section 420.032(a)(3), Government Code, is
11 amended to read as follows:

12 (3) "Photo documentation" means video or photographs
13 of a child [~~alleged to be the~~] victim of a sexual assault that are
14 taken with a colposcope or other magnifying camera during the
15 forensic portion of a medical examination of the child.

16 SECTION 13. Sections 420.032(b) and (e), Government Code,
17 are amended to read as follows:

18 (b) In a county with a population of three million or more,
19 the forensic portion of a medical examination of a child [~~alleged to~~
20 ~~be the~~] victim of a sexual assault must include the production of
21 photo documentation unless the medical professional examining the
22 child determines that good cause for refraining from producing
23 photo documentation exists.

24 (e) The fact that the medical professional examining the
25 child did not produce photo documentation in the forensic portion
26 of a medical examination of a child [~~alleged to be the~~] victim of a
27 sexual assault and the reasons behind the lack of photo

1 documentation are admissible at the trial of the [~~alleged~~] sexual
2 assault, but the lack of photo documentation will not affect the
3 admissibility of other evidence in the case.

4 SECTION 14. Sections 420.034(a) and (c), Government Code,
5 are amended to read as follows:

6 (a) For purposes of this section, "evidence" means evidence
7 collected during the investigation of a [~~an alleged~~] sexual assault
8 or other sex offense, including:

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

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

14 (c) The tracking system must:

15 (1) include all evidence collected in relation to a
16 sexual assault or other sex offense, regardless of whether evidence
17 of the offense is collected in relation to an individual who is
18 alive or deceased;

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

26 (3) [~~(2)~~] allow a facility or entity performing a
27 forensic medical examination of a survivor, law enforcement agency,

1 accredited crime laboratory, prosecutor, or other entity providing
2 a chain of custody for an item of evidence to update and track the
3 status and location of the item; and

4 (4) [~~(3)~~] allow a survivor to anonymously track or
5 receive updates regarding the status and location of each item of
6 evidence collected in relation to the offense.

7 SECTION 15. Section 420.045, Government Code, is
8 transferred to Section 420.034, Government Code, redesignated as
9 Subsection (h) of that section, and amended to read as follows:

10 (h) Not later than December 1 of each year, the department
11 [~~Sec. 420.045. REPORT OF UNANALYZED EVIDENCE OF SEXUAL ASSAULT OR~~
12 ~~OTHER SEX OFFENSE. Each law enforcement agency and public~~
13 ~~accredited crime laboratory]~~ shall submit a [~~quarterly~~] report to
14 the governor and members of the legislature [~~department~~]
15 identifying the number of sexual assault evidence collection kits
16 that have [~~the law enforcement agency has~~] not yet been submitted
17 for laboratory analysis or for which the [~~crime~~] laboratory
18 analysis has not yet been completed [~~an analysis~~], as applicable.
19 The report must be titled "Statewide Electronic Tracking System
20 Report".

21 SECTION 16. Section 420.035(a), Government Code, as added
22 by Chapter 408 (H.B. 8), Acts of the 86th Legislature, Regular
23 Session, 2019, is amended to read as follows:

24 (a) If a health care facility or other entity that performs
25 a medical examination to collect evidence of a sexual assault or
26 other sex offense receives signed, written consent to release the
27 evidence as provided by Section 420.0735, the facility or entity

1 shall:

2 (1) promptly notify any law enforcement agency
3 investigating the ~~[alleged]~~ offense; and

4 (2) not later than 24 hours after the conclusion of the
5 examination, enter the identification number of the evidence
6 collection kit into the statewide electronic tracking system under
7 Section 420.034.

8 SECTION 17. Section 420.046, Government Code, is amended to
9 read as follows:

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

14 SECTION 18. The heading to Chapter 323, Health and Safety
15 Code, is amended to read as follows:

16 CHAPTER 323. EMERGENCY SERVICES AND FORENSIC EXAMINATION
17 PROGRAMS FOR SURVIVORS OF SEXUAL ASSAULT

18 SECTION 19. Chapter 323, Health and Safety Code, is amended
19 by designating Sections 323.001 through 323.008 as Subchapter A and
20 adding a subchapter heading to read as follows:

21 SUBCHAPTER A. EMERGENCY SERVICES FOR SURVIVORS OF SEXUAL
22 ASSAULT

23 SECTION 20. Section 323.004(a), Health and Safety Code, is
24 amended to read as follows:

25 (a) Except as otherwise provided by Subsection (a-2), after
26 a sexual assault survivor arrives at a health care facility
27 following a [an-alleged] sexual assault, the facility shall provide

1 care to the survivor in accordance with Subsection (b).

2 SECTION 21. Chapter 323, Health and Safety Code, is amended
3 by adding Subchapter B to read as follows:

4 SUBCHAPTER B. SEXUAL ASSAULT FORENSIC EXAMINATION PROGRAMS

5 Sec. 323.051. DEFINITIONS. In this subchapter:

6 (1) "Health facility" means a health facility licensed
7 under Subtitle B, Title 4.

8 (2) "Physician" means a physician licensed under
9 Subtitle B, Title 3, Occupations Code.

10 (3) "SAFE program" means a program that meets the
11 requirements prescribed by Section 323.052.

12 (4) "SAFE-ready facility" means a health care facility
13 designated as a sexual assault forensic exam-ready facility under
14 Section 323.0015 or a SAFE program, as defined by Section
15 323.101(3) and designated under Section 323.102.

16 (5) "Sexual assault examiner," "sexual assault nurse
17 examiner," and "sexual assault program" have the meanings assigned
18 by Section 420.003, Government Code.

19 Sec. 323.052. OPERATION OF SAFE PROGRAM; DESIGNATION OF
20 SAFE PROGRAM AS SAFE-READY FACILITY. (a) A health facility may
21 operate a SAFE program only if:

22 (1) the program meets the minimum standards
23 established under Section 323.053; and

24 (2) the facility provides forensic medical
25 examinations to sexual assault survivors in accordance with Section
26 323.054.

27 (b) The Health and Human Services Commission shall

1 designate a health facility operating a SAFE program described by
2 Subsection (a) as a SAFE-ready facility if the facility notifies
3 the commission that the facility employs or contracts with a sexual
4 assault forensic examiner or uses a telemedicine system of sexual
5 assault forensic examiners to provide consultation to a licensed
6 nurse or physician during a sexual assault forensic medical
7 examination.

8 Sec. 323.053. MINIMUM STANDARDS FOR SAFE PROGRAMS. A SAFE
9 program must:

10 (1) operate under the active oversight of a medical
11 director who is a physician in good standing with the Texas Medical
12 Board;

13 (2) provide medical treatment under a physician's
14 order, standing medical order, standing delegation order, or other
15 order or protocol as defined by Texas Medical Board rules;

16 (3) employ or contract with a sexual assault examiner
17 or a sexual assault nurse examiner;

18 (4) provide access to a sexual assault program
19 advocate, as required by Subchapter H, Chapter 56A, Code of
20 Criminal Procedure;

21 (5) ensure a sexual assault survivor has access to a
22 private treatment room;

23 (6) if indicated by a survivor's history or on a
24 survivor's request, provide:

25 (A) HIV testing and prophylactic medication to
26 the survivor or a referral for the testing and medication; and

27 (B) counseling and prophylactic medications for

1 exposure to sexually transmitted infections and pregnancy;

2 (7) provide to survivors the name and telephone number
3 of the nearest sexual assault program that provides to survivors
4 the minimum services described by Subchapter A, Chapter 420,
5 Government Code;

6 (8) provide to survivors the information form required
7 by Section 323.005 or 323.0052, as applicable;

8 (9) collaborate with any sexual assault program that
9 provides services to survivors in the county;

10 (10) continually engage in efforts to improve the
11 quality of the program;

12 (11) maintain capacity for immediate triage or have
13 agreements with other health facilities to assure that a survivor
14 receives the appropriate level of care indicated for the survivor's
15 medical and mental health needs;

16 (12) prioritize the safety and well-being of
17 survivors;

18 (13) provide a trauma-informed approach in the
19 forensic medical care provided to survivors; and

20 (14) collaborate with:

21 (A) law enforcement agencies and attorneys
22 representing the state with jurisdiction in the county;

23 (B) any available local sexual assault response
24 team; and

25 (C) other interested persons in the community.

26 Sec. 323.054. FORENSIC MEDICAL EXAMINATION BY SAFE PROGRAM;
27 INFORMED CONSENT. (a) A SAFE program shall provide to a sexual

1 assault survivor under the care of the program a forensic medical
2 examination in accordance with Subchapter B, Chapter 420,
3 Government Code, if the examination has been requested by a law
4 enforcement agency under Subchapter F, Chapter 56A, Code of
5 Criminal Procedure, or if the examination is performed in
6 accordance with Subchapter G, Chapter 56A, Code of Criminal
7 Procedure.

8 (b) Only a sexual assault examiner or a sexual assault nurse
9 examiner may perform a forensic medical examination under a SAFE
10 program.

11 (c) A sexual assault examiner or sexual assault nurse
12 examiner employed by or under contract with a SAFE program must
13 obtain a sexual assault survivor's informed, written consent before
14 performing a forensic medical examination or providing medical
15 treatment to the survivor.

16 (d) A sexual assault survivor who receives a forensic
17 medical examination from a sexual assault examiner or sexual
18 assault nurse examiner employed by or under contract with a SAFE
19 program may not be required to:

20 (1) participate in the investigation or prosecution of
21 an offense as a prerequisite to receiving the forensic medical
22 examination or medical treatment; or

23 (2) pay for the costs of the forensic portion of the
24 forensic medical examination or for the evidence collection kit.

25 SECTION 22. Except as otherwise provided by this Act, to the
26 extent of any conflict, this Act prevails over another Act of the
27 87th Legislature, Regular Session, 2021, relating to

1 nonsubstantive additions to and corrections in enacted codes.

2 SECTION 23. The change in law made by this Act applies only
3 to sexual assault evidence and evidence of other sex offenses
4 collected on or after the effective date of this Act. Evidence
5 collected before the effective date of this Act is governed by the
6 law in effect on the date the evidence was collected, and the former
7 law is continued in effect for that purpose.

8 SECTION 24. This Act takes effect September 1, 2021.