

BILL ANALYSIS

C.S.H.B. 1446
By: Dale
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that in order to encourage sexual assault victims to come forward promptly to preserve crucial, perishable forensic evidence, a victim should not be responsible for the cost of a medical examination or collection of evidence following the assault. However, the parties note that in some cases, a victim is held responsible for such costs. C.S.H.B. 1446 seeks to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1446 amends the Code of Criminal Procedure to authorize the attorney general to make a payment to or on behalf of a victim of an alleged sexual assault, regardless of whether the victim has reported the assault to a law enforcement agency, for the reasonable costs incurred for emergency medical care provided to the victim. The bill expands the authorized uses of the compensation to victims of crime fund to include making such payments and reimbursing the Department of Public Safety for the reasonable cost of a forensic medical examination of a victim of an alleged sexual assault who has not reported the assault to a law enforcement agency. The bill specifies that the type of medical examination that a law enforcement agency is required to request for a victim of an alleged sexual assault who reports the assault is a forensic medical examination.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1446 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Article 56.46, Code of Criminal Procedure, is amended by adding Subsection (d) to read as follows:

(d) Subsection (a) does not apply to reimbursement for a forensic medical examination performed in accordance with Subchapter B, Chapter 420, Government Code, or for any other medical care described by Section 323.004, Health and Safety Code, if the examination or care was provided to the victim of an offense under Section 21.02, 21.11, 22.011, or 22.021, Penal Code.

No equivalent provision.

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision. (See Sections 56.06 (f) and 56.065(k), Code of Criminal Procedure, below.)

SECTION 1. The heading to Article 56.06, Code of Criminal Procedure, is amended to read as follows:

Art. 56.06. FORENSIC MEDICAL EXAMINATION FOR SEXUAL ASSAULT VICTIM WHO HAS REPORTED ASSAULT; COSTS.

SECTION 2. Article 56.06, Code of Criminal Procedure, is amended by amending Subsections (a), (b), (c), and (d) and adding Subsection (f) to read as follows:

(a) If a sexual assault is reported to a law enforcement agency within 96 hours of the assault, the law enforcement agency, with the consent of the victim, a person authorized to act on behalf of the victim, or an employee of the Department of Family and Protective Services, shall request a forensic medical examination of the victim of the alleged assault for use in the investigation or prosecution of the offense. A law enforcement agency may decline to request a forensic medical examination under this subsection only if the person reporting the sexual assault has made one or more false reports of sexual assault to any law enforcement agency and if there is no other evidence to corroborate the current allegations of sexual assault.

(b) If a sexual assault is not reported within the period described by Subsection (a), on receiving the consent described by that subsection the law enforcement agency may request a forensic medical examination of a victim of an alleged sexual assault as considered appropriate by the agency.

(c) A law enforcement agency that requests a forensic medical examination of a victim of an alleged sexual assault for use in the investigation or prosecution of the offense shall pay all costs of the examination. On application to the attorney general, the law enforcement agency is entitled to be reimbursed for the reasonable costs of that examination if the examination was performed by a physician or by a sexual assault examiner or sexual assault nurse examiner, as defined by Section 420.003, Government Code.

(d) A law enforcement agency or prosecuting attorney's office may pay all costs related to the testimony of a licensed health care professional in a criminal proceeding regarding the results of the forensic medical examination or manner in which it was performed.

No equivalent provision. (See SECTION 1 above.)

(f) The attorney general may make a payment to or on behalf of an individual for the reasonable costs incurred for medical care provided in accordance with Section 323.004, Health and Safety Code.

No equivalent provision. (See SECTION 1 above.)

SECTION 3. Article 56.065, Code of Criminal Procedure, is amended by adding Subsection (k) to read as follows:

(k) The attorney general may make a payment to or on behalf of an individual for the reasonable costs incurred for medical care provided in accordance with Section 323.004, Health and Safety Code.

No equivalent provision.

SECTION 4. Article 56.54(k), Code of Criminal Procedure, is amended to read as follows:

(k) The attorney general may use the compensation to victims of crime fund to:

(1) reimburse a law enforcement agency for the reasonable costs of a forensic medical examination that are incurred by the agency under Article 56.06 or 56.065; and

(2) make a payment to or on behalf of an individual for the reasonable costs incurred for medical care provided under Article 56.06 or 56.065 in accordance with Section 323.004, Health and Safety Code.

SECTION 2. The change in law made by this Act applies only to compensation for criminally injurious conduct occurring on or after the effective date of this Act. Compensation for criminally injurious conduct occurring before the effective date of this Act is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, criminally injurious conduct occurred before the effective date of this Act if any element of the offense underlying the conduct occurred before that date.

SECTION 3. This Act takes effect September 1, 2015.

SECTION 5. The change in law made by this Act applies only to payments made for medical care provided on or after the effective date of this Act. Payments made for medical care provided before the effective date of this Act are governed by the law in effect on the date the care was provided, and the former law is continued in effect for that purpose.

SECTION 6. Same as introduced version.