

By: González

H.B. No. 3455

A BILL TO BE ENTITLED

AN ACT

relating to the rights of victims of sexual assault.

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

SECTION 1. Article 56.021(a), Code of Criminal Procedure, is amended to read as follows:

(a) In addition to the rights enumerated in Article 56.02, if the offense is a sexual assault, the victim, guardian of a victim, or close relative of a deceased victim is entitled to the following rights within the criminal justice system:

(1) if requested, the right to a disclosure of information regarding any evidence that was collected during the investigation of the offense, unless disclosing the information would interfere with the investigation or prosecution of the offense, in which event the victim, guardian, or relative shall be informed of the estimated date on which that information is expected to be disclosed;

(2) if requested, the right to a disclosure of information regarding the status of any analysis being performed of any evidence that was collected during the investigation of the offense;

(3) if requested, the right to be notified:

(A) at the time a request is submitted to a crime laboratory to process and analyze any evidence that was collected during the investigation of the offense;

1 (B) at the time of the submission of a request to  
2 compare any biological evidence collected during the investigation  
3 of the offense with DNA profiles maintained in a state or federal  
4 DNA database; and

5 (C) of the results of the comparison described by  
6 Paragraph (B), unless disclosing the results would interfere with  
7 the investigation or prosecution of the offense, in which event the  
8 victim, guardian, or relative shall be informed of the estimated  
9 date on which those results are expected to be disclosed;

10 (4) if requested, the right to counseling regarding  
11 acquired immune deficiency syndrome (AIDS) and human  
12 immunodeficiency virus (HIV) infection;

13 (5) for the victim of the offense:

14 (A) [7] testing for acquired immune deficiency  
15 syndrome (AIDS), human immunodeficiency virus (HIV) infection,  
16 antibodies to HIV, or infection with any other probable causative  
17 agent of AIDS; and

18 (B) accurate and thorough information about  
19 reproductive options and any appropriate referral to a health care  
20 provider or facility;

21 (6) ~~[to the extent provided by Articles 56.06 and~~  
22 ~~56.065]~~ for the victim of the offense, the right to a forensic  
23 medical examination ~~[if]~~ within 120 ~~[96]~~ hours of the offense~~[7~~  
24 ~~the offense is reported to a law enforcement agency or a forensic~~  
25 ~~medical examination is otherwise conducted]~~ at a health care  
26 facility in the victim's community;

27 (7) for a victim 18 years of age or older, the right to

1 determine whether and when to report an assault to law enforcement;

2 (8) the right to provide information and input to law  
3 enforcement and prosecutors before decisions are made regarding the  
4 case;

5 (9) in the event that an investigation is closed  
6 without charges being filed or a charge is dismissed, the right to  
7 receive thorough and accurate information about any other legal  
8 options to assist and protect the victim and the victim's family;

9 (10) the right to be informed about the address  
10 confidentiality program under Subchapter C, the confidentiality of  
11 victim records under Chapter 57, and any other programs available  
12 to protect the victim's personal information;

13 (11) the right to an interpreter in a nonjudicial  
14 setting related to the case, including for languages other than  
15 English and Spanish; and

16 (12) the right to a grievance process to investigate  
17 and remedy any violation of this article.

18 SECTION 2. Chapter 56, Code of Criminal Procedure, is  
19 amended by adding Article 56.022 to read as follows:

20 Art. 56.022. POLICY REGARDING VICTIMS OF SEXUAL ASSAULT.  
21 It is the policy of this state that a victim of sexual assault be  
22 afforded the following rights:

23 (1) the right to protection from discrimination in  
24 housing or employment on the basis of the assault;

25 (2) the right to report or have reported a sexual  
26 assault without being punished by an institution of higher  
27 education;

1           (3) the right to access all information regarding the  
2 offense, including records not normally subject to public  
3 disclosure;

4           (4) the right to have the sexual assault investigated  
5 by law enforcement officers competent in trauma-informed  
6 investigation techniques;

7           (5) the right to be assisted or accompanied by a sexual  
8 assault program advocate during any stage of evidence collection,  
9 law enforcement interaction, court proceedings, or any other  
10 institutional process; and

11           (6) the right to exercise any rights of victims of  
12 sexual assault regardless of the victim's actual or perceived race,  
13 sex, disability, nationality, language, sexual orientation, gender  
14 identity or expression, occupation, immigration status, amount or  
15 source of income, or criminal record.

16           SECTION 3. Articles 56.06(a) and (b), Code of Criminal  
17 Procedure, are amended to read as follows:

18           (a) If a sexual assault is reported to a law enforcement  
19 agency within 120 ~~[96]~~ hours of the assault, the law enforcement  
20 agency, with the consent of the victim, a person authorized to act  
21 on behalf of the victim, or an employee of the Department of Family  
22 and Protective Services, shall request a medical examination of the  
23 victim of the alleged assault for use in the investigation or  
24 prosecution of the offense. ~~[A law enforcement agency may decline~~  
25 ~~to request a medical examination under this subsection only if the~~  
26 ~~person reporting the sexual assault has made one or more false~~  
27 ~~reports of sexual assault to any law enforcement agency and if there~~

1 ~~is no other evidence to corroborate the current allegations of~~  
2 ~~sexual assault.]~~

3 (b) If a sexual assault is not reported within the period  
4 described by Subsection (a), on request of the victim and on  
5 receiving the consent described by that subsection the law  
6 enforcement agency shall ~~[may]~~ request a medical examination of a  
7 victim of an alleged sexual assault ~~[as considered appropriate by~~  
8 ~~the agency]~~.

9 SECTION 4. Article 56.065, Code of Criminal Procedure, is  
10 amended by amending Subsection (d) and adding Subsection (d-1) to  
11 read as follows:

12 (d) The department shall pay the appropriate fees, as set by  
13 attorney general rule, for the forensic portion of the medical  
14 examination and for the evidence collection kit if a physician,  
15 sexual assault examiner, or sexual assault nurse examiner conducts  
16 the forensic portion of the examination within 120 ~~[96]~~ hours after  
17 the alleged sexual assault occurred and the victim chooses to  
18 report the criminally injurious conduct at that time. The attorney  
19 general shall reimburse the department for fees paid under this  
20 subsection.

21 (d-1) If a physician, sexual assault examiner, or sexual  
22 assault nurse examiner conducts an examination later than 120 hours  
23 after the alleged sexual assault occurred or if the victim chooses  
24 not to report the criminally injurious conduct, the victim may  
25 apply for reimbursement of costs in the manner prescribed by  
26 Subchapter B.

27 SECTION 5. Article 56.46, Code of Criminal Procedure, is

1 amended by adding Subsection (d) to read as follows:

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

8       SECTION 6. The change in law made by this Act applies only  
9 to victims of criminally injurious conduct occurring on or after  
10 the effective date of this Act. Criminally injurious conduct  
11 occurring before the effective date of this Act is governed by the  
12 law in effect on the date the conduct occurred, and the former law  
13 is continued in effect for that purpose. For purposes of this  
14 section, criminally injurious conduct occurred before the  
15 effective date of this Act if any element of the offense underlying  
16 the conduct occurred before that date.

17       SECTION 7. This Act takes effect September 1, 2015.