

## **BILL ANALYSIS**

C.S.H.B. 281  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that a growing backlog of sexual assault evidence kits means there is an increased need for transparency between the victims of sexual assault and the systems that process such material. C.S.H.B. 281 seeks to provide a victim with secure access to the status of evidence relating to the victim's case and the opportunity to obtain such information with convenience and ease.

### **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. 281 amends the Government Code to require the Department of Public Safety (DPS) to develop and implement a statewide electronic tracking system for evidence collected in relation to a sexual assault or other sex offense, including evidence from an evidence kit used to collect and preserve evidence of such an offense and other biological evidence of such an offense. The bill requires the tracking system to track the location and status of each item of evidence through the criminal justice process, allow a facility or entity performing a forensic medical examination of a survivor, law enforcement agency, accredited crime laboratory, prosecutor, or other entity providing a chain of custody for an item of evidence to update and track the status and location of the item, and allow a survivor to anonymously track or receive updates regarding the status and location of each item of evidence collected in relation to the offense. The bill authorizes DPS to accept gifts, grants, or donations from any person or entity to assist in establishing and maintaining the tracking system.

C.S.H.B. 281 requires DPS, not later than September 1, 2019, to require participation in the tracking system by any facility or entity that collects evidence of a sexual assault or other sex offense or investigates or prosecutes a sexual assault or other sex offense for which evidence has been collected. The bill exempts from state public information law records entered into the tracking system and limits access to records relating to evidence tracked under the system to the survivor from whom the evidence was collected or to an employee of a facility or entity required to participate in the tracking system for purposes of updating or tracking the status or location of an item of evidence. The bill prohibits an employee of DPS or a facility or entity required to participate in the tracking system from disclosing to a parent or legal guardian of a survivor information that would aid the parent or legal guardian in accessing records relating to evidence tracked under the system if the employee knows or has reason to believe that the parent or legal guardian is a suspect or a suspected accomplice in the commission of the offense with respect to

which evidence was collected.

## EFFECTIVE DATE

September 1, 2017.

## COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 281 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. The heading to Subchapter B, Chapter 420, Government Code, is amended.

SECTION 2. Subchapter B, Chapter 420, Government Code, is amended by adding Section 420.034 to read as follows:

Sec. 420.034. STATEWIDE ELECTRONIC TRACKING SYSTEM.

(a) The department shall develop and implement a statewide electronic tracking system for evidence collection kits used to collect and preserve evidence of a sexual assault or other sex offense.

(b) The tracking system must:

(1) track the location and status of each evidence collection kit through the criminal justice process, including the initial collection of evidence for the kit in a forensic medical examination performed at a health care facility, receipt and storage of the kit at a law enforcement agency, receipt and analysis of the kit at an accredited crime laboratory, and storage and destruction of the kit after the applicable evidence is analyzed;

(2) allow a health care facility performing a forensic medical examination of a survivor, law enforcement agency, accredited crime laboratory, prosecutor, or other entity providing a chain of custody for an evidence collection kit to update and track the status

### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Subchapter B, Chapter 420, Government Code, is amended by adding Section 420.034 to read as follows:

Sec. 420.034. STATEWIDE ELECTRONIC TRACKING SYSTEM.

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

(1) evidence from an evidence collection kit used to collect and preserve evidence of a sexual assault or other sex offense; and  
(2) other biological evidence of a sexual assault or other sex offense.

(b) The department shall develop and implement a statewide electronic tracking system for evidence collected in relation to a sexual assault or other sex offense.

(c) The tracking system must:

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

(2) allow a facility or entity performing a forensic medical examination of a survivor, law enforcement agency, accredited crime laboratory, prosecutor, or other entity providing a chain of custody for an item of evidence to update and track

and location of the kit; and

(3) allow a survivor to anonymously track or receive updates regarding the status and location of the survivor's evidence collection kit.

(c) The department shall require participation in the tracking system by any entity that collects evidence for an evidence collection kit or investigates or prosecutes a sex offense for which an evidence collection kit has been completed.

(d) Records entered into the tracking system are confidential and are not subject to disclosure under Chapter 552. Records relating to an evidence collection kit may be accessed only by:

(1) the survivor for whom the evidence collection kit was completed; or

(2) an employee of an entity described by Subsection (c), for purposes of updating or tracking the status or location of the evidence collection kit.

SECTION 3. Not later than September 1, 2019, the Department of Public Safety of the State of Texas shall require all entities described by Section 420.034(c), Government Code, as added by this Act, to participate in the statewide electronic tracking system established under that section.

SECTION 4. This Act takes effect September 1, 2017.

the status and location of the item; and

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

(d) The department shall require participation in the tracking system by any facility or entity that collects evidence of a sexual assault or other sex offense or investigates or prosecutes a sexual assault or other sex offense for which evidence has been collected.

(e) Records entered into the tracking system are confidential and are not subject to disclosure under Chapter 552. Records relating to evidence tracked under the system may be accessed only by:

(1) the survivor from whom the evidence was collected; or

(2) an employee of a facility or entity described by Subsection (d), for purposes of updating or tracking the status or location of an item of evidence.

(f) An employee of the department or a facility or entity described by Subsection (d) may not disclose to a parent or legal guardian of a survivor information that would aid the parent or legal guardian in accessing records relating to evidence tracked under the system if the employee knows or has reason to believe that the parent or legal guardian is a suspect or a suspected accomplice in the commission of the offense with respect to which evidence was collected.

(g) To assist in establishing and maintaining the statewide electronic tracking system under this section, the department may accept gifts, grants, or donations from any person or entity.

SECTION 3. Not later than September 1, 2019, the Department of Public Safety of the State of Texas shall require all facilities and entities described by Section 420.034(d), Government Code, as added by this Act, to participate in the statewide electronic tracking system established under that section.

SECTION 4. Same as introduced version.