

By: Minjarez

H.B. No. 1171

Substitute the following for H.B. No. 1171:

By: Moody

C.S.H.B. No. 1171

A BILL TO BE ENTITLED

AN ACT

relating to the collection, storage, and analysis of sexual assault evidence and evidence of other sex offenses.

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

SECTION 1. Subchapter B, Chapter 420, Government Code, is amended by adding Section 420.034 to read as follows:

Sec. 420.034. EVIDENCE RELEASE AND STORAGE. (a) If a health care facility or other entity that performs a medical examination to collect evidence of a sexual assault or other sex offense receives signed, written consent to release the evidence as provided by Section 420.0735, the facility or entity shall notify either the law enforcement agency investigating the alleged sexual assault or other sex offense, if known, or the local law enforcement agency not later than 24 hours after receiving consent.

(b) A law enforcement agency that receives notice from a health care facility or other entity under Subsection (a) shall take possession of the evidence not later than the 14th day after the date the law enforcement agency receives notice.

(c) If a law enforcement agency that takes possession of evidence under Subsection (b) determines that the agency does not have jurisdiction over the investigation of the alleged sexual assault or other sex offense, the law enforcement agency shall notify the law enforcement agency with jurisdiction over the investigation not later than 14 days after making that

1 determination.

2 (d) A law enforcement agency that receives notice under
3 Subsection (c) shall take possession of the evidence not later than
4 the 14th day after the date the law enforcement agency receives
5 notice.

6 (e) A health care facility or other entity that performs a
7 medical examination to collect evidence of a sexual assault or
8 other sex offense that has not obtained signed, written consent as
9 provided by Section 420.0735 shall provide the survivor with
10 information relating to:

11 (1) the facility's or entity's evidence storage policy
12 for evidence of a sexual assault or other sex offense, including a
13 statement of the period for which the evidence will be stored before
14 the evidence is destroyed; and

15 (2) the ways in which the survivor can release the
16 evidence to a law enforcement agency.

17 (f) A health care facility or other entity that performs a
18 medical examination must store evidence of a sexual assault or
19 other sex offense that is not released to a law enforcement agency
20 until at least the first anniversary of the date the evidence was
21 collected.

22 (g) The failure of a health care facility or other entity or
23 a law enforcement agency to comply with the requirements of this
24 section does not constitute grounds in a criminal proceeding for:

25 (1) a defendant to challenge the validity of a DNA
26 match obtained by comparison under Section 420.043; or

27 (2) a court to exclude DNA evidence.

1 (h) A person accused or convicted of committing a sexual
2 assault or other sex offense against the survivor does not have
3 standing to object to the failure of a health care facility or other
4 entity or a law enforcement agency to comply with the requirements
5 of this section. Failure of a facility, entity, or agency to comply
6 with the requirements of this section does not constitute grounds
7 for setting aside the conviction of a person convicted of
8 committing a sexual assault or other sex offense against the
9 survivor.

10 SECTION 2. Section 420.042, Government Code, is amended by
11 amending Subsections (a), (c), and (e) and adding Subsections (f)
12 and (g) to read as follows:

13 (a) A law enforcement agency that receives sexual assault
14 evidence or evidence of another sex offense collected under this
15 chapter or other law shall assign a unique number to the evidence
16 and shall submit that evidence to a public accredited crime
17 laboratory for analysis not later than the 14th [~~30th~~] day after the
18 date on which that evidence was received. Evidence submitted to a
19 public accredited crime laboratory under this subsection must
20 include the unique number assigned to the evidence by the agency.

21 (c) If sufficient personnel and resources are available, a
22 public accredited crime laboratory, as soon as practicable but not
23 later than the 60th day after the date on which the laboratory
24 received the evidence, shall complete its analysis of [~~sexual~~
25 ~~assault~~] evidence submitted under this chapter or other law.

26 (e) The failure of a law enforcement agency to take
27 possession of sexual assault evidence or evidence of another sex

1 offense within the period required by Section 420.034 or to submit
2 that [~~sexual assault~~] evidence within the period required by this
3 section does not affect the authority of:

4 (1) the agency to take possession of the evidence;

5 (2) the agency to submit the evidence to an accredited
6 crime laboratory for analysis; [~~or~~]

7 (3) [~~(2)~~] an accredited crime laboratory to analyze
8 the evidence or provide the results of that analysis to appropriate
9 persons; or

10 (4) the department to compare the DNA profile obtained
11 from the biological evidence with DNA profiles in a database under
12 Section 420.043.

13 (f) The failure of a law enforcement agency or public
14 accredited crime laboratory to comply with the requirements of this
15 section does not constitute grounds in a criminal proceeding for:

16 (1) the defendant to challenge the validity of a DNA
17 match obtained by comparison under Section 420.043; or

18 (2) a court to exclude DNA evidence.

19 (g) A person accused or convicted of committing a sexual
20 assault or other sex offense against the survivor does not have
21 standing to object to the failure of a law enforcement agency or
22 public accredited crime laboratory to comply with the requirements
23 of this section. Failure of an agency or laboratory to comply with
24 the requirements of this section does not constitute grounds for
25 setting aside the conviction of a person convicted of committing a
26 sexual assault or other sex offense against the survivor.

27 SECTION 3. Section 420.043, Government Code, is amended to

1 read as follows:

2 Sec. 420.043. DATABASE COMPARISON REQUIRED. After [~~On the~~
3 ~~request of any appropriate person and after~~] an evidence collection
4 kit containing biological evidence has been analyzed by an
5 accredited crime laboratory and any necessary quality assurance
6 reviews have been performed, the department shall compare the DNA
7 profile obtained from the biological evidence with DNA profiles
8 maintained in:

9 (1) state databases, including the DNA database
10 maintained under Subchapter G, Chapter 411, if the amount and
11 quality of the analyzed sample meet the requirements of the state
12 database comparison policies; and

13 (2) the CODIS DNA database established by the Federal
14 Bureau of Investigation, if the amount and quality of the analyzed
15 sample meet the requirements of the bureau's CODIS comparison
16 policies.

17 SECTION 4. (a) Except as provided by Subsections (b) and
18 (c) of this section, the changes in law made by this Act apply only
19 to sexual assault evidence and evidence of other sex offenses
20 collected on or after the effective date of this Act. Evidence
21 collected before the effective date of this Act is governed by the
22 law in effect on the date the evidence was collected, and the former
23 law is continued in effect for that purpose.

24 (b) The change in law made by this Act to Section
25 420.042(a), Government Code, applies only to sexual assault
26 evidence and evidence of other sex offenses received by a law
27 enforcement agency not earlier than 14 days before the effective

1 date of this Act. Evidence received by a law enforcement agency
2 earlier than 14 days before the effective date of this Act is
3 governed by the law in effect on the date the evidence was received,
4 and the former law is continued in effect for that purpose.

5 (c) The change in law made by this Act by adding Section
6 420.034(c), Government Code, applies only to sexual assault
7 evidence and evidence of other sex offenses received by a public
8 accredited crime laboratory on or after the effective date of this
9 Act. Evidence received by a public accredited crime laboratory
10 before the effective date of this Act is governed by the law in
11 effect on the date the evidence was received, and the former law is
12 continued in effect for that purpose.

13 SECTION 5. This Act takes effect September 1, 2017.