

## **BILL ANALYSIS**

C.S.H.B. 616  
By: Neave  
Homeland Security & Public Safety  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Concerns have been raised regarding the commitment of resources by law enforcement agencies in handling requests by health care facilities for the reimbursement of money spent to conduct forensic exams of sexual assault victims. It has been suggested that some of the administrative aspects of these requests are more efficiently handled by the requesting facilities. C.S.H.B. 616 seeks to address this issue by providing for fewer administrative burdens for law enforcement and a more efficient reimbursement process for health care facilities.

### **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 rulemaking authority is expressly granted to the attorney general in SECTIONS 3 and 4 of this bill.

### **ANALYSIS**

C.S.H.B. 616 amends the Code of Criminal Procedure to extend the period within which a sexual assault offense must be reported, or within which the victim must arrive at a health care facility, for the victim of the offense to be entitled to a forensic medical examination from within 96 hours of the offense to within 120 hours of the offense. The bill authorizes a law enforcement agency to decline to request a forensic medical examination for a sexual assault victim who has reported the assault if the sexual assault was not reported to the agency within that time period. The bill requires a law enforcement agency, if a sexual assault is reported to the agency at any time, to document, in the form and manner required by the attorney general, whether the agency requested a forensic medical examination and to provide such documentation to:

- the health care facility and the sexual assault examiner or sexual assault nurse examiner, as applicable, that provides services to the victim that are related to the sexual assault; and
- the victim or the person who consented to the forensic medical examination on behalf of the victim.

The bill requires the law enforcement agency to maintain the documentation of the agency's decision in accordance with the agency's record retention policies.

C.S.H.B. 616 repeals provisions requiring a law enforcement agency that requests a forensic medical examination of a victim of a reported sexual assault for use in the investigation or prosecution of the offense to pay all costs of the examination, requiring the Department of Public Safety (DPS) to pay certain fees associated with a forensic medical examination of a sexual assault victim who has not reported the assault, and entitling such an agency or DPS to

reimbursement.

C.S.H.B. 616 entitles a health care facility that provides a forensic medical examination to a sexual assault survivor, or the sexual assault examiner or sexual assault nurse examiner who conducts that examination, as applicable, to be reimbursed on application to the attorney general in an amount set by attorney general rule for the reasonable costs of the forensic portion of that examination and for the evidence collection kit. If the examination was provided to a sexual assault survivor who has not reported the assault, the reimbursement entitlement applies only if the examination was provided within 120 hours after the alleged assault occurred. The bill requires the application for reimbursement to be in the form and manner prescribed by the attorney general and sets out the required contents of the application. The bill requires a reimbursement applicant to accept reimbursement from the attorney general as payment for the costs unless an investigation of the costs by the attorney general determines there is a reasonable health care justification for a deviation. The bill establishes that a health care facility is not entitled to reimbursement unless the examination was conducted at the facility by a physician, sexual assault examiner, or sexual assault nurse examiner. The bill authorizes the attorney general to provide, on request, training to a health care facility regarding the process for applying for the reimbursement. The bill requires the attorney general to adopt rules necessary to implement provisions relating to a forensic medical examination for a sexual assault victim who has reported the assault, as amended by the bill, and specifies the health care facilities to which those provisions apply.

C.S.H.B. 616 specifies that the costs incurred for certain medical care provided to a sexual assault survivor for which the attorney general may make a payment to or on behalf of an individual are necessary costs.

C.S.H.B. 616 authorizes the attorney general to use the compensation to victims of crime fund to reimburse a health care facility, sexual assault examiner, or sexual assault nurse examiner for certain costs of a forensic medical examination that are incurred by the facility or the examiner in providing the examination to a sexual assault victim.

C.S.H.B. 616 amends the Health and Safety Code to revise the information regarding crime victims compensation included in the standard information form for sexual assault survivors developed by the Department of State Health Services by including a statement that public agencies are responsible for paying for the forensic portion of an examination and for the evidence collection kit and that the health care facility or provider, as applicable, is responsible for seeking reimbursement for those costs and information regarding the reimbursement of the survivor for the medical portion of the examination.

C.S.H.B. 616 repeals the following provisions:

- Article 56.06(c), Code of Criminal Procedure
- Articles 56.065(a)(3) and (d), Code of Criminal Procedure
- Section 420.031(d), Government Code

### **EFFECTIVE DATE**

September 1, 2019.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 616 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes the following:

- provisions extending the period within which a sexual assault offense must be reported, or within which the victim must arrive at a health care facility, for the victim of the offense to be entitled to a forensic medical examination;
- an authorization for a law enforcement agency to decline to request a forensic medical examination for a sexual assault victim if the sexual assault was not timely reported; and
- documentation requirements for a law enforcement agency regarding requests for a forensic medical examination for a sexual assault victim who reported the assault to the agency.

The substitute does not include certain changes to provisions relating to the responsibility of law enforcement agencies and DPS to pay costs associated with forensic medical examinations for sexual assault victims, and the substitute repeals those provisions instead.

The substitute makes the following changes with regard to the reimbursement of a health care facility that provides a forensic medical examination to a sexual assault survivor for costs of the forensic portion of that examination and for the evidence collection kit:

- changes the amount of the reimbursement to an amount set by attorney general rule;
- includes a provision entitling a sexual assault examiner or sexual assault nurse examiner who conducts such an examination to the reimbursement, if applicable;
- includes requirements for the reimbursement application;
- includes requirements for an applicant to accept reimbursement as payment for the costs, with certain exceptions;
- includes authorizations for the attorney general to provide training to a health care facility regarding the reimbursement process; and
- includes a provision specifying the health care facilities to which provisions relating to examinations for victims who report the assault apply.

The substitute includes a requirement for the attorney general to adopt rules regarding the examinations for victims who have reported the assault.

The substitute includes provisions specifying that the costs incurred for certain medical care provided to a sexual assault victim for which the attorney general may make a payment to or on behalf of an individual are necessary costs.

The substitute changes provisions regarding the use of the compensation to victims of crime fund to reimburse costs of a forensic medical examination of a sexual assault victim.

The substitute changes the revised information regarding crime victims compensation included in the standard information form for sexual assault survivors developed by the Department of State Health Services.