86R4163 AJZ-D

By:  Neave H.B. No. 616

A BILL TO BE ENTITLED

AN ACT

relating to compensation for a portion of a forensic medical examination of a sexual assault survivor and for the evidence collection kit required for the examination.

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

SECTION 1.  Article 56.06, Code of Criminal Procedure, is amended by adding Subsection (b-1) and amending Subsection (c) to read as follows:

(b-1)  On application to the attorney general, a health care facility that provides a forensic medical examination to a sexual assault survivor in accordance with this article is entitled to be compensated for the reasonable costs of the forensic portion of that examination and for the evidence collection kit, not to exceed the amount the law enforcement agency would otherwise be required to pay under Subsection (c), 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.

(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 the [~~all~~] costs, less any amount to be paid directly to the health care facility by the attorney general under Subsection (b-1), of the forensic portion of the examination and of the evidence collection kit. On application to the attorney general, the law enforcement agency is entitled to be reimbursed for the reasonable costs of the forensic portion of that examination and of the evidence collection kit 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.

SECTION 2.  Article 56.065, Code of Criminal Procedure, is amended by adding Subsection (c-1) and amending Subsection (d) to read as follows:

(c-1)  On application to the attorney general, a health care facility that provides a forensic medical examination to a sexual assault survivor in accordance with this article is entitled to be compensated for the appropriate costs of the forensic portion of that examination and for the evidence collection kit, not to exceed the amount the department would otherwise be required to pay under Subsection (d), if a physician, sexual assault examiner, or sexual assault nurse examiner conducts the forensic portion of the examination within 96 hours after the alleged sexual assault occurred.

(d)  The department shall pay the appropriate fees, as set by attorney general rule, less any amount to be paid directly to the health care facility by the attorney general under Subsection (c-1), for the forensic portion of the medical examination and for the evidence collection kit if a physician, sexual assault examiner, or sexual assault nurse examiner conducts the forensic portion of the examination within 96 hours after the alleged sexual assault occurred. The attorney general shall reimburse the department for fees paid under this subsection.

SECTION 3.  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)  compensate a health care facility for certain costs of a forensic medical examination that are incurred by the facility under Article 56.06 or 56.065, as provided by those articles; and

(3)  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 4.  Section 323.005(a), Health and Safety Code, is amended to read as follows:

(a)  The department shall develop a standard information form for sexual assault survivors that must include:

(1)  a detailed explanation of the forensic medical examination required to be provided by law, including a statement that photographs may be taken of the genitalia;

(2)  information regarding treatment of sexually transmitted infections and pregnancy, including:

(A)  generally accepted medical procedures;

(B)  appropriate medications; and

(C)  any contraindications of the medications prescribed for treating sexually transmitted infections and preventing pregnancy;

(3)  information regarding drug-facilitated sexual assault, including the necessity for an immediate urine test for sexual assault survivors who may have been involuntarily drugged;

(4)  information regarding crime victims compensation, including:

(A)  a statement that other entities are responsible for paying for the forensic portion of an examination and for the evidence collection kit and that those entities will seek compensation or reimbursement for those costs[~~:~~

[~~(i)  a law enforcement agency will pay for the forensic portion of an examination requested by the agency under Article 56.06, Code of Criminal Procedure, and for the evidence collection kit; or~~

[~~(ii)  the Department of Public Safety will pay the appropriate fees for the forensic portion of an examination conducted under Article 56.065, Code of Criminal Procedure, and for the evidence collection kit~~]; and

(B)  [~~reimbursement~~] information regarding the reimbursement of the survivor for the medical portion of the examination;

(5)  an explanation that consent for the forensic medical examination may be withdrawn at any time during the examination;

(6)  the name and telephone number of sexual assault crisis centers statewide; and

(7)  information regarding postexposure prophylaxis for HIV infection.

SECTION 5.  Section 420.031(d), Government Code, is amended to read as follows:

(d)  A law enforcement agency that requests a medical examination of a victim of an alleged sexual assault or other sex offense for use in the investigation or prosecution of the offense shall pay the costs of the evidence collection kit, unless the health care facility performing the forensic medical examination is directly compensated for the costs of the evidence collection kit by the attorney general's office under Article 56.06(b-1) or 56.065(c-1), Code of Criminal Procedure. This subsection does not require a law enforcement agency to pay any costs of treatment for injuries.

SECTION 6.  The change in law made by this Act applies to a forensic medical examination that occurs on or after the effective date of this Act. A forensic medical examination that occurs before that date is governed by the law as it existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 7.  This Act takes effect September 1, 2019.