

AN ACT

relating to the criminal statute of limitations for certain sex offenses and the collection, analysis, and preservation of evidence of sexual assault and other sex offenses.

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

SECTION 1. This Act shall be known as the Lavinia Masters Act.

SECTION 2. Article 12.01, Code of Criminal Procedure, is amended to read as follows:

Art. 12.01. FELONIES. Except as provided in Article 12.03, felony indictments may be presented within these limits, and not afterward:

(1) no limitation:

(A) murder and manslaughter;

(B) sexual assault under Section 22.011(a)(2), Penal Code, or aggravated sexual assault under Section 22.021(a)(1)(B), Penal Code;

(C) sexual assault, if:

(i) during the investigation of the offense biological matter is collected and the matter:

(a) has not yet been subjected to forensic DNA testing; or

(b) has been subjected to forensic DNA testing and the testing results show that the matter does not match

1 the victim or any other person whose identity is readily
2 ascertained; or

3 (ii) probable cause exists to believe that
4 the defendant has committed the same or a similar sex [~~sexual~~]
5 offense against five or more victims;

6 (D) continuous sexual abuse of young child or
7 children under Section 21.02, Penal Code;

8 (E) indecency with a child under Section 21.11,
9 Penal Code;

10 (F) an offense involving leaving the scene of an
11 accident under Section 550.021, Transportation Code, if the
12 accident resulted in the death of a person;

13 (G) trafficking of persons under Section
14 20A.02(a)(7) or (8), Penal Code;

15 (H) continuous trafficking of persons under
16 Section 20A.03, Penal Code; or

17 (I) compelling prostitution under Section
18 43.05(a)(2), Penal Code;

19 (2) ten years from the date of the commission of the
20 offense:

21 (A) theft of any estate, real, personal or mixed,
22 by an executor, administrator, guardian or trustee, with intent to
23 defraud any creditor, heir, legatee, ward, distributee,
24 beneficiary or settlor of a trust interested in such estate;

25 (B) theft by a public servant of government
26 property over which he exercises control in his official capacity;

27 (C) forgery or the uttering, using or passing of

- 1 forged instruments;
- 2 (D) injury to an elderly or disabled individual
3 punishable as a felony of the first degree under Section 22.04,
4 Penal Code;
- 5 (E) sexual assault, except as provided by
6 Subdivision (1);
- 7 (F) arson;
- 8 (G) trafficking of persons under Section
9 20A.02(a)(1), (2), (3), or (4), Penal Code; or
- 10 (H) compelling prostitution under Section
11 43.05(a)(1), Penal Code;
- 12 (3) seven years from the date of the commission of the
13 offense:
- 14 (A) misapplication of fiduciary property or
15 property of a financial institution;
- 16 (B) securing execution of document by deception;
- 17 (C) a felony violation under Chapter 162, Tax
18 Code;
- 19 (D) false statement to obtain property or credit
20 under Section 32.32, Penal Code;
- 21 (E) money laundering;
- 22 (F) credit card or debit card abuse under Section
23 32.31, Penal Code;
- 24 (G) fraudulent use or possession of identifying
25 information under Section 32.51, Penal Code;
- 26 (H) exploitation of a child, elderly individual,
27 or disabled individual under Section 32.53, Penal Code;

1 (I) Medicaid fraud under Section 35A.02, Penal
2 Code; or

3 (J) bigamy under Section 25.01, Penal Code,
4 except as provided by Subdivision (6);

5 (4) five years from the date of the commission of the
6 offense:

7 (A) theft or robbery;

8 (B) except as provided by Subdivision (5),
9 kidnapping or burglary;

10 (C) injury to an elderly or disabled individual
11 that is not punishable as a felony of the first degree under Section
12 22.04, Penal Code;

13 (D) abandoning or endangering a child; or

14 (E) insurance fraud;

15 (5) if the investigation of the offense shows that the
16 victim is younger than 17 years of age at the time the offense is
17 committed, 20 years from the 18th birthday of the victim of one of
18 the following offenses:

19 (A) sexual performance by a child under Section
20 43.25, Penal Code;

21 (B) aggravated kidnapping under Section
22 20.04(a)(4), Penal Code, if the defendant committed the offense
23 with the intent to violate or abuse the victim sexually; or

24 (C) burglary under Section 30.02, Penal Code, if
25 the offense is punishable under Subsection (d) of that section and
26 the defendant committed the offense with the intent to commit an
27 offense described by Subdivision (1)(B) or (D) of this article or

1 Paragraph (B) of this subdivision;

2 (6) ten years from the 18th birthday of the victim of
3 the offense:

4 (A) trafficking of persons under Section
5 20A.02(a)(5) or (6), Penal Code;

6 (B) injury to a child under Section 22.04, Penal
7 Code; or

8 (C) bigamy under Section 25.01, Penal Code, if
9 the investigation of the offense shows that the person, other than
10 the legal spouse of the defendant, whom the defendant marries or
11 purports to marry or with whom the defendant lives under the
12 appearance of being married is younger than 18 years of age at the
13 time the offense is committed; or

14 (7) three years from the date of the commission of the
15 offense: all other felonies.

16 SECTION 3. Article 38.43, Code of Criminal Procedure, is
17 amended by amending Subsection (c) and adding Subsection (c-1) to
18 read as follows:

19 (c) An entity or individual described by Subsection (b)
20 shall ensure that biological evidence, other than the contents of a
21 sexual assault examination kit subject to Subsection (c-1),
22 collected pursuant to an investigation or prosecution of a felony
23 offense or conduct constituting a felony offense is retained and
24 preserved:

25 (1) for not less than 40 years, or until any ~~the~~
26 applicable statute of limitations has expired, if there is an
27 unapprehended actor associated with the offense; or

1 (2) in a case in which a defendant has been convicted,
2 placed on deferred adjudication community supervision, or
3 adjudicated as having engaged in delinquent conduct and there are
4 no additional unapprehended actors associated with the offense:

5 (A) until the inmate is executed, dies, or is
6 released on parole, if the defendant is convicted of a capital
7 felony;

8 (B) until the defendant dies, completes the
9 defendant's sentence, or is released on parole or mandatory
10 supervision, if the defendant is sentenced to a term of confinement
11 or imprisonment in the Texas Department of Criminal Justice;

12 (C) until the defendant completes the
13 defendant's term of community supervision, including deferred
14 adjudication community supervision, if the defendant is placed on
15 community supervision;

16 (D) until the defendant dies, completes the
17 defendant's sentence, or is released on parole, mandatory
18 supervision, or juvenile probation, if the defendant is committed
19 to the Texas Juvenile Justice Department; or

20 (E) until the defendant completes the
21 defendant's term of juvenile probation, including a term of
22 community supervision upon transfer of supervision to a criminal
23 court, if the defendant is placed on juvenile probation.

24 (c-1) An entity or individual described by Subsection (b)
25 shall ensure that the contents of a sexual assault examination kit
26 collected pursuant to an investigation or prosecution of a felony
27 offense or conduct constituting a felony offense is retained and

1 preserved for not less than 40 years, or until any applicable
2 statute of limitations has expired, whichever period is longer.
3 This subsection applies regardless of whether a person has been
4 apprehended for or charged with committing the offense.

5 SECTION 4. Article 56.065, Code of Criminal Procedure, is
6 amended by amending Subsection (g) and adding Subsections (g-1),
7 (g-2), and (g-3) to read as follows:

8 (g) The department, consistent with Chapter 420, Government
9 Code, shall develop procedures for:

10 (1) the transfer [and preservation] of evidence
11 collected under this article to a crime laboratory or other
12 suitable location designated by the public safety director of the
13 department;

14 (2) the preservation of the evidence by the receiving
15 entity; and

16 (3) the notification of the victim of the offense
17 before a planned destruction of evidence under this article.

18 (g-1) Subject to Subsection (g-2), an [The receiving]
19 entity receiving evidence described by Subsection (g) shall
20 preserve the evidence until the earlier of:

21 (1) the fifth [second] anniversary of the date on
22 which [the] evidence was collected; or

23 (2) the date on which written consent to release the
24 evidence is obtained as provided by Section 420.0735, Government
25 Code.

26 (g-2) An entity receiving evidence described by Subsection
27 (g) may destroy the evidence on the expiration of the entity's duty

1 to preserve the evidence under Subsection (g-1)(1) only if:

2 (1) the entity provides written notification to the
3 victim of the offense, in a trauma-informed manner, of the decision
4 to destroy the evidence that includes:

5 (A) detailed instructions on how the victim may
6 make a written objection to the decision, including contact
7 information for the entity; or

8 (B) a standard form for the victim to complete
9 and return to the entity to make a written objection to the
10 decision; and

11 (2) a written objection is not received by the entity
12 from the victim before the 91st day after the date on which the
13 entity notifies the victim of the planned destruction of the
14 evidence.

15 (g-3) The entity shall document the entity's attempt to
16 notify the victim under Subsection (g-2).

17 SECTION 5. Section 420.003, Government Code, is amended by
18 amending Subdivisions (1-a), (1-d), and (8) and adding Subdivision
19 (3) to read as follows:

20 (1-a) "Active criminal case" means a case:

21 (A) in which:

22 (i) a sexual assault or other sex offense
23 has been reported to a law enforcement agency; and

24 (ii) physical evidence of the offense
25 [~~assault~~] has been submitted to the agency or an accredited crime
26 laboratory under this chapter for analysis; and

27 (B) for which:

1 (i) the statute of limitations has not run
2 with respect to the prosecution of the offense [~~sexual assault~~]; or

3 (ii) a DNA profile was obtained that is
4 eligible under Section 420.043 for comparison with DNA profiles in
5 the state database or CODIS DNA database.

6 (1-d) "Law enforcement agency" means a state or local
7 law enforcement agency in this state with jurisdiction over the
8 investigation of a sexual assault or other sex offense.

9 (3) "Sex offense" means an offense under Chapter 21,
10 Penal Code, for which biological evidence is collected in an
11 evidence collection kit.

12 (8) "Survivor" means an individual who is a victim of a
13 sexual assault or other sex offense, regardless of whether a report
14 or conviction is made in the incident.

15 SECTION 6. Section 420.033, Government Code, is amended to
16 read as follows:

17 Sec. 420.033. CHAIN OF CUSTODY. Medical, law enforcement,
18 department, and laboratory personnel who handle [~~sexual assault~~]
19 evidence of a sexual assault or other sex offense under this chapter
20 or other law shall maintain the chain of custody of the evidence
21 from the time the evidence is collected until the time the evidence
22 is destroyed.

23 SECTION 7. Subchapter B, Chapter 420, Government Code, is
24 amended by adding Section 420.035 to read as follows:

25 Sec. 420.035. EVIDENCE RELEASE. (a) If a health care
26 facility or other entity that performs a medical examination to
27 collect evidence of a sexual assault or other sex offense receives

1 signed, written consent to release the evidence as provided by
2 Section 420.0735, the facility or entity shall promptly notify any
3 law enforcement agency investigating the alleged offense.

4 (b) Except as provided by Subsection (c), a law enforcement
5 agency that receives notice from a health care facility or other
6 entity under Subsection (a) shall take possession of the evidence
7 not later than the seventh day after the date the law enforcement
8 agency receives notice.

9 (c) A law enforcement agency that receives notice from a
10 health care facility or other entity that is located more than 100
11 miles from the law enforcement agency shall take possession of the
12 evidence not later than the 14th day after the date the law
13 enforcement agency receives notice.

14 (d) Failure to comply with evidence collection procedures
15 or requirements under this section does not affect the
16 admissibility of the evidence in a trial of the offense.

17 SECTION 8. Subchapter B-1, Chapter 420, Government Code, is
18 amended to read as follows:

19 SUBCHAPTER B-1. ANALYSIS OF [~~SEXUAL ASSAULT~~] EVIDENCE OF SEXUAL
20 ASSAULT OR OTHER SEX OFFENSE

21 Sec. 420.041. APPLICABILITY OF SUBCHAPTER. This subchapter
22 applies only to physical evidence of a sexual assault or other sex
23 offense that is collected with respect to an active criminal case.

24 Sec. 420.042. ANALYSIS OF [~~SEXUAL ASSAULT~~] EVIDENCE. (a) A
25 law enforcement agency that receives [~~sexual assault~~] evidence of a
26 sexual assault or other sex offense that is collected under this
27 chapter or other law shall submit that evidence to a public

1 accredited crime laboratory for analysis not later than the 30th
2 day after the date on which that evidence was received.

3 (b) A person who submits [~~sexual assault~~] evidence of a
4 sexual assault or other sex offense to a public accredited crime
5 laboratory under this chapter or other law shall provide the
6 following signed, written certification with each submission:
7 "This evidence is being submitted by (name of person making
8 submission) in connection with a criminal investigation."

9 (c) If sufficient personnel and resources are available, a
10 public accredited crime laboratory, as soon as practicable but not
11 later than the 90th day after the date on which the laboratory
12 received the evidence, shall complete its analysis of [~~sexual~~
13 ~~assault~~] evidence of a sexual assault or other sex offense that is
14 submitted under this chapter or other law.

15 (c-1) With respect to a criminal case in which evidence of a
16 sexual assault or other sex offense is collected and the number of
17 offenders is uncertain or unknown, a public accredited crime
18 laboratory shall analyze any evidence of the sexual assault or
19 other sex offense submitted to the laboratory under this chapter or
20 other law that is necessary to identify the offender or offenders.

21 (d) To ensure the expeditious completion of analyses, the
22 department and other applicable public accredited crime
23 laboratories may contract with private accredited crime
24 laboratories as appropriate to perform those analyses, subject to
25 the necessary quality assurance reviews by the public accredited
26 crime laboratories.

27 (e) The failure of a law enforcement agency to take

1 possession of evidence of a sexual assault or other sex offense
2 within the period required by Section 420.035 or to submit that
3 ~~[sexual assault]~~ evidence within the period required by this
4 section does not affect the authority of:

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

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

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

11 (4) the department or a public accredited crime
12 laboratory authorized under Section 420.043(b) to compare the DNA
13 profile obtained from the biological evidence with DNA profiles in
14 the databases described by Section 420.043(a).

15 (f) Failure to comply with the requirements under this
16 section does not affect the admissibility of the evidence in a trial
17 of the offense.

18 Sec. 420.043. DATABASE COMPARISON REQUIRED. (a) Not later
19 than the 30th day after the date ~~[On the request of any appropriate~~
20 ~~person and after]~~ an evidence collection kit containing biological
21 evidence has been analyzed by an accredited crime laboratory and
22 any necessary quality assurance reviews have been performed, except
23 as provided by Subsection (b), the department shall compare the DNA
24 profile obtained from the biological evidence with DNA profiles
25 maintained in:

26 (1) state databases, including the DNA database
27 maintained under Subchapter G, Chapter 411, if the amount and

1 quality of the analyzed sample meet the requirements of the state
2 database comparison policies; and

3 (2) the CODIS DNA database established by the Federal
4 Bureau of Investigation, if the amount and quality of the analyzed
5 sample meet the requirements of the bureau's CODIS comparison
6 policies.

7 (b) If the evidence kit containing biological evidence is
8 analyzed by a public accredited crime laboratory, the laboratory,
9 instead of the department, may perform the comparison of DNA
10 profiles required under Subsection (a) provided that:

11 (1) the laboratory performs the comparison not later
12 than the 30th day after the date the analysis is complete and any
13 necessary quality assurance reviews have been performed;

14 (2) the law enforcement agency that submitted the
15 evidence collection kit containing biological evidence gives
16 permission; and

17 (3) the laboratory meets applicable federal and state
18 requirements to access the databases described by Subsection (a).

19 (c) The department may use appropriated funds to employ
20 personnel and purchase equipment and technology necessary to comply
21 with the requirements of this section.

22 Sec. 420.044. GRANT FUNDS. The department shall apply for
23 any available federal grant funds applicable to the analysis of
24 evidence collection kits containing biological evidence, including
25 grant money available under the National Institute of Justice's DNA
26 Capacity Enhancement and Backlog Reduction Program.

27 Sec. 420.045. REPORT OF UNANALYZED EVIDENCE OF SEXUAL

1 ASSAULT OR OTHER SEX OFFENSE. Each law enforcement agency and
2 public accredited crime laboratory shall submit a quarterly report
3 to the department identifying the number of evidence collection
4 kits that the law enforcement agency has not yet submitted for
5 laboratory analysis or for which the crime laboratory has not yet
6 completed an analysis, as applicable.

7 Sec. 420.046. NONCOMPLIANCE. Failure to comply with the
8 requirements of this subchapter may be used to determine
9 eligibility for receiving grant funds from the department, the
10 office of the governor, or another state agency.

11 Sec. 420.047. AUDIT OF UNANALYZED EVIDENCE OF SEXUAL
12 ASSAULT OR OTHER SEX OFFENSE. (a) A law enforcement agency in
13 possession of an evidence collection kit that has not been
14 submitted for laboratory analysis shall:

15 (1) not later than December 15, 2019, submit to the
16 department a list of the agency's active criminal cases for which an
17 evidence collection kit collected on or before September 1, 2019,
18 has not yet been submitted for laboratory analysis;

19 (2) not later than January 15, 2020, and subject to the
20 availability of laboratory storage space, submit to the department
21 or a public accredited crime laboratory, as appropriate, all
22 evidence collection kits pertaining to those active criminal cases
23 that have not yet been submitted for laboratory analysis; and

24 (3) if the law enforcement agency submits an evidence
25 collection kit under Subdivision (2) to a laboratory other than a
26 department laboratory, notify the department of:

27 (A) the laboratory to which the evidence

1 collection kit was sent; and

2 (B) any analysis completed by the laboratory to
3 which the evidence collection kit was sent and the date on which the
4 analysis was completed.

5 (b) Not later than September 1, 2020, the department shall
6 submit to the governor and the appropriate standing committees of
7 the senate and the house of representatives a report containing:

8 (1) a projected timeline for the completion of
9 laboratory analyses, in accordance with this chapter, of all
10 unanalyzed evidence collection kits submitted under Subsection
11 (a)(2);

12 (2) a request for any necessary funding to accomplish
13 the analyses under Subdivision (1), including a request for a grant
14 of money under Article 102.056(e), Code of Criminal Procedure, if
15 money is available under that subsection;

16 (3) as appropriate, application materials for
17 requests made as required by Subdivision (2); and

18 (4) if the department determines that outsourcing
19 certain evidence collection kits is necessary for timely analyses
20 of the kits:

21 (A) a proposal for determining which evidence
22 collection kits should be outsourced; and

23 (B) a list of laboratories the department
24 determines are capable of completing the outsourced analyses.

25 (c) Not later than September 1, 2022, and to the extent that
26 funding is available, the department shall, as provided by Sections
27 420.042 and 420.043, analyze or contract for the analysis of, and

1 complete the required database comparison, or ensure that a public
2 accredited laboratory completed the comparison, regarding all
3 evidence collection kits submitted to the department under
4 Subsection (a)(2).

5 (d) Notwithstanding Subsection (c), the department is not
6 required to use under this section in a state fiscal year any amount
7 of money from the state highway fund that exceeds the amount the
8 department has historically used in a state fiscal year to fund
9 laboratory analyses of evidence collection kits under this chapter.

10 (e) To supplement funding of laboratory analyses under this
11 section, the department may solicit and receive grants, gifts, or
12 donations of money from the federal government or private sources
13 as described by this chapter.

14 (f) This section expires September 1, 2023.

15 SECTION 9. Chapter 420, Government Code, is amended by
16 adding Subchapter E to read as follows:

17 SUBCHAPTER E. STATEWIDE TELEHEALTH CENTER FOR SEXUAL ASSAULT

18 FORENSIC MEDICAL EXAMINATION

19 Sec. 420.101. DEFINITIONS. In this subchapter:

20 (1) "Center" means the statewide telehealth center for
21 sexual assault forensic medical examination.

22 (2) "Telehealth service" has the meaning assigned by
23 Section 111.001, Occupations Code.

24 Sec. 420.102. ESTABLISHMENT OF CENTER. The attorney
25 general shall establish the statewide telehealth center for sexual
26 assault forensic medical examination to expand access to sexual
27 assault nurse examiners for underserved populations.

1 Sec. 420.103. POWERS OF CENTER. (a) In accordance with
2 other law, the center may facilitate in person or through
3 telecommunications or information technology the provision by a
4 sexual assault nurse examiner of:

5 (1) training or technical assistance to a sexual
6 assault examiner on:

7 (A) conducting a forensic medical examination on
8 a survivor; and

9 (B) the use of telehealth services; and

10 (2) consultation services, guidance, or technical
11 assistance to a sexual assault examiner during a forensic medical
12 examination on a survivor.

13 (b) With permission from the facility or entity where a
14 forensic medical examination on a survivor is conducted and to the
15 extent authorized by other law, the center may facilitate the use of
16 telehealth services during a forensic medical examination on a
17 survivor.

18 (c) The center may deliver other services as requested by
19 the attorney general to carry out the purposes of this subchapter.

20 Sec. 420.104. OPERATION PROTOCOLS REQUIRED. (a) The
21 center and the attorney general shall develop operation protocols
22 to address compliance with applicable laws and rules governing:

23 (1) telehealth services;

24 (2) standards of professional conduct for licensure
25 and practice;

26 (3) standards of care;

27 (4) maintenance of records;

- 1 (5) technology requirements;
- 2 (6) data privacy and security of patient information;
- 3 and
- 4 (7) the operation of a telehealth center.

5 (b) The center shall make every effort to ensure the system
6 through which the center operates for the provision of telehealth
7 services meets national standards for interoperability to connect
8 to telehealth systems outside of the center.

9 Sec. 420.105. AUTHORIZED CONTRACTS. The attorney general
10 may enter into any contract the attorney general considers
11 necessary to implement this subchapter, including a contract to:

- 12 (1) develop, implement, maintain, or operate the
13 center;
- 14 (2) train or provide technical assistance for health
15 care professionals on conducting forensic medical examinations and
16 the use of telehealth services; or
- 17 (3) provide consultation, guidance, or technical
18 assistance for health care professionals using telehealth services
19 during a forensic medical examination.

20 Sec. 420.106. FUNDING. (a) The legislature may
21 appropriate money to the attorney general to establish the center.

22 (b) The attorney general may provide funds to the center
23 for:

- 24 (1) establishing and maintaining the operations of the
25 center;
- 26 (2) training conducted by or through the center;
- 27 (3) travel expenses incurred by a sexual assault nurse

1 examiner for:

2 (A) carrying out the nurse's duties under Section
3 420.103(a); or

4 (B) testifying as a witness outside the nurse's
5 county of residence;

6 (4) equipment and software applications for the
7 center; and

8 (5) any other purpose considered appropriate by the
9 attorney general.

10 Sec. 420.107. CONSULTATION REQUIRED. In implementing this
11 subchapter, the attorney general shall consult with persons with
12 expertise in medicine and forensic medical examinations, a
13 statewide sexual assault coalition, a statewide organization with
14 expertise in the operation of children's advocacy programs, and
15 attorneys with expertise in prosecuting sexual assault offenses.

16 Sec. 420.108. RULES. The attorney general may adopt rules
17 as necessary to implement this subchapter.

18 SECTION 10. Section 323.005, Health and Safety Code, is
19 amended by amending Subsection (a) and adding Subsection (d) to
20 read as follows:

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

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

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

- 1 (A) generally accepted medical procedures;
2 (B) appropriate medications; and
3 (C) any contraindications of the medications
4 prescribed for treating sexually transmitted infections and
5 preventing pregnancy;

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

9 (4) information regarding crime victims compensation,
10 including:

11 (A) a statement that public agencies are
12 responsible for paying for the forensic portion of an examination
13 conducted under Article 56.06 or 56.065, Code of Criminal
14 Procedure, and for the evidence collection kit used in connection
15 with the examination[+]

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

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

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

27 (5) an explanation that consent for the forensic

1 medical examination may be withdrawn at any time during the
2 examination;

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

5 (7) information regarding postexposure prophylaxis
6 for HIV infection.

7 (d) In addition to providing the information form described
8 by Subsection (a), a health care facility shall ensure that the
9 information described by Subsection (a)(4)(A) is orally
10 communicated to the survivor.

11 SECTION 11. Chapter 323, Health and Safety Code, is amended
12 by adding Section 323.0052 to read as follows:

13 Sec. 323.0052. INFORMATION FORM FOR SEXUAL ASSAULT
14 SURVIVORS WHO HAVE NOT REPORTED ASSAULT. (a) The department shall
15 develop a standard information form that, as described by
16 Subsection (b), is to be provided to sexual assault survivors who
17 have not given signed, written consent to a health care facility to
18 release the evidence as provided by Section 420.0735, Government
19 Code. The form must include the following information:

20 (1) the Department of Public Safety's policy regarding
21 storage of evidence of a sexual assault or other sex offense that is
22 collected under Article 56.065, Code of Criminal Procedure,
23 including:

24 (A) a statement that the evidence will be stored
25 until the fifth anniversary of the date on which the evidence was
26 collected before the evidence becomes eligible for destruction; and

27 (B) the department's procedures regarding the

1 notification of the survivor before a planned destruction of the
2 evidence;

3 (2) a statement that the survivor may request the
4 release of the evidence to a law enforcement agency and report a
5 sexual assault or other sex offense to the agency at any time;

6 (3) the name, phone number, and e-mail address of the
7 law enforcement agency with jurisdiction over the offense; and

8 (4) the name and phone number of a local rape crisis
9 center.

10 (b) A health care facility that provides care to a sexual
11 assault survivor who has not given consent as described by
12 Subsection (a) shall provide the standard form developed under
13 Subsection (a) to the survivor before the survivor is released from
14 the facility.

15 SECTION 12. The change in law made by this Act to Article
16 12.01, Code of Criminal Procedure, does not apply to an offense if
17 the prosecution of that offense becomes barred by limitation before
18 the effective date of this Act. The prosecution of that offense
19 remains barred as if this Act had not taken effect.

20 SECTION 13. The change in law made by this Act to Article
21 38.43, Code of Criminal Procedure, applies only to biological
22 evidence destroyed on or after the effective date of this Act.
23 Biological evidence destroyed before the effective date of this Act
24 is governed by the law that was in effect immediately before the
25 effective date of this Act, and the former law is continued in
26 effect for that purpose.

27 SECTION 14. (a) Except as provided by this section, the

1 changes in law made by this Act to Article 56.065, Code of Criminal
2 Procedure, and Chapter 420, Government Code, apply only to sexual
3 assault evidence and evidence of other sex offenses collected on or
4 after the effective date of this Act. Evidence collected before the
5 effective date of this Act is governed by the law in effect on the
6 date the evidence was collected, and the former law is continued in
7 effect for that purpose.

8 (b) The change in law made by this Act to Section
9 420.042(c), Government Code, applies only to sexual assault
10 evidence and evidence of other sex offenses received by a public
11 accredited crime laboratory on or after January 1, 2021. Evidence
12 received by a public accredited crime laboratory before January 1,
13 2021, is governed by the law in effect immediately before the
14 effective date of this Act, and the former law is continued in
15 effect for that purpose.

16 (c) Notwithstanding Section 420.046, Government Code, as
17 added by this Act, a law enforcement agency's or public accredited
18 crime laboratory's failure to comply with the requirements of
19 Subchapter B-1, Chapter 420, Government Code, as amended by this
20 Act, before January 15, 2020, does not affect the agency's or
21 laboratory's eligibility for grants if the agency or laboratory is
22 in compliance with Subchapter B-1, Chapter 420, Government Code, as
23 amended by this Act, beginning on that date.

24 (d) Section 420.047, Government Code, as added by this Act,
25 applies to an evidence collection kit in possession of a law
26 enforcement agency on September 1, 2019.

27 SECTION 15. The Department of Public Safety of the State of

1 Texas and the Department of State Health Services are required to
2 implement a provision of this Act only if the legislature
3 appropriates money specifically for that purpose. If the
4 legislature does not appropriate money specifically for that
5 purpose, those agencies may, but are not required to, implement a
6 provision of this Act using other appropriations available for that
7 purpose.

8 SECTION 16. This Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I certify that H.B. No. 8 was passed by the House on April 17, 2019, by the following vote: Yeas 138, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 8 on May 23, 2019, by the following vote: Yeas 144, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 8 was passed by the Senate, with amendments, on May 20, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor