

1-1 By: Neave, et al. (Senate Sponsor - Nelson, Alvarado) H.B. No. 8
 1-2 (In the Senate - Received from the House April 23, 2019;
 1-3 April 25, 2019, read first time and referred to Committee on
 1-4 Criminal Justice; May 9, 2019, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
 1-6 May 9, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Whitmire	X			
1-9 Huffman	X			
1-10 Buckingham	X			
1-11 Flores			X	
1-12 Hughes			X	
1-13 Miles	X			
1-14 Perry	X			

1-16 COMMITTEE SUBSTITUTE FOR H.B. No. 8 By: Whitmire

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the criminal statute of limitations for certain sex
 1-20 offenses and the collection, analysis, and preservation of evidence
 1-21 of sexual assault and other sex offenses.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. This Act shall be known as the Lavinia Masters
 1-24 Act.

1-25 SECTION 2. Article 12.01, Code of Criminal Procedure, is
 1-26 amended to read as follows:

1-27 Art. 12.01. FELONIES. Except as provided in Article 12.03,
 1-28 felony indictments may be presented within these limits, and not
 1-29 afterward:

1-30 (1) no limitation:

1-31 (A) murder and manslaughter;

1-32 (B) sexual assault under Section 22.011(a)(2),
 1-33 Penal Code, or aggravated sexual assault under Section
 1-34 22.021(a)(1)(B), Penal Code;

1-35 (C) sexual assault, if:

1-36 (i) during the investigation of the offense
 1-37 biological matter is collected and the matter:

1-38 (a) has not yet been subjected to
 1-39 forensic DNA testing; or

1-40 (b) has been subjected to forensic DNA
 1-41 testing and the testing results show that the matter does not match
 1-42 the victim or any other person whose identity is readily
 1-43 ascertained; or

1-44 (ii) probable cause exists to believe that
 1-45 the defendant has committed the same or a similar sex [~~sexual~~]
 1-46 offense against five or more victims;

1-47 (D) continuous sexual abuse of young child or
 1-48 children under Section 21.02, Penal Code;

1-49 (E) indecency with a child under Section 21.11,
 1-50 Penal Code;

1-51 (F) an offense involving leaving the scene of an
 1-52 accident under Section 550.021, Transportation Code, if the
 1-53 accident resulted in the death of a person;

1-54 (G) trafficking of persons under Section
 1-55 20A.02(a)(7) or (8), Penal Code;

1-56 (H) continuous trafficking of persons under
 1-57 Section 20A.03, Penal Code; or

1-58 (I) compelling prostitution under Section
 1-59 43.05(a)(2), Penal Code;

1-60 (2) ten years from the date of the commission of the

2-1 offense:

2-2 (A) theft of any estate, real, personal or mixed,

2-3 by an executor, administrator, guardian or trustee, with intent to

2-4 defraud any creditor, heir, legatee, ward, distributee,

2-5 beneficiary or settlor of a trust interested in such estate;

2-6 (B) theft by a public servant of government

2-7 property over which he exercises control in his official capacity;

2-8 (C) forgery or the uttering, using or passing of

2-9 forged instruments;

2-10 (D) injury to an elderly or disabled individual

2-11 punishable as a felony of the first degree under Section 22.04,

2-12 Penal Code;

2-13 (E) sexual assault, except as provided by

2-14 Subdivision (1);

2-15 (F) arson;

2-16 (G) trafficking of persons under Section

2-17 20A.02(a)(1), (2), (3), or (4), Penal Code; or

2-18 (H) compelling prostitution under Section

2-19 43.05(a)(1), Penal Code;

2-20 (3) seven years from the date of the commission of the

2-21 offense:

2-22 (A) misapplication of fiduciary property or

2-23 property of a financial institution;

2-24 (B) securing execution of document by deception;

2-25 (C) a felony violation under Chapter 162, Tax

2-26 Code;

2-27 (D) false statement to obtain property or credit

2-28 under Section 32.32, Penal Code;

2-29 (E) money laundering;

2-30 (F) credit card or debit card abuse under Section

2-31 32.31, Penal Code;

2-32 (G) fraudulent use or possession of identifying

2-33 information under Section 32.51, Penal Code;

2-34 (H) exploitation of a child, elderly individual,

2-35 or disabled individual under Section 32.53, Penal Code;

2-36 (I) Medicaid fraud under Section 35A.02, Penal

2-37 Code; or

2-38 (J) bigamy under Section 25.01, Penal Code,

2-39 except as provided by Subdivision (6);

2-40 (4) five years from the date of the commission of the

2-41 offense:

2-42 (A) theft or robbery;

2-43 (B) except as provided by Subdivision (5),

2-44 kidnapping or burglary;

2-45 (C) injury to an elderly or disabled individual

2-46 that is not punishable as a felony of the first degree under Section

2-47 22.04, Penal Code;

2-48 (D) abandoning or endangering a child; or

2-49 (E) insurance fraud;

2-50 (5) if the investigation of the offense shows that the

2-51 victim is younger than 17 years of age at the time the offense is

2-52 committed, 20 years from the 18th birthday of the victim of one of

2-53 the following offenses:

2-54 (A) sexual performance by a child under Section

2-55 43.25, Penal Code;

2-56 (B) aggravated kidnapping under Section

2-57 20.04(a)(4), Penal Code, if the defendant committed the offense

2-58 with the intent to violate or abuse the victim sexually; or

2-59 (C) burglary under Section 30.02, Penal Code, if

2-60 the offense is punishable under Subsection (d) of that section and

2-61 the defendant committed the offense with the intent to commit an

2-62 offense described by Subdivision (1)(B) or (D) of this article or

2-63 Paragraph (B) of this subdivision;

2-64 (6) ten years from the 18th birthday of the victim of

2-65 the offense:

2-66 (A) trafficking of persons under Section

2-67 20A.02(a)(5) or (6), Penal Code;

2-68 (B) injury to a child under Section 22.04, Penal

2-69 Code; or

3-1 (C) bigamy under Section 25.01, Penal Code, if
3-2 the investigation of the offense shows that the person, other than
3-3 the legal spouse of the defendant, whom the defendant marries or
3-4 purports to marry or with whom the defendant lives under the
3-5 appearance of being married is younger than 18 years of age at the
3-6 time the offense is committed; or

3-7 (7) three years from the date of the commission of the
3-8 offense: all other felonies.

3-9 SECTION 3. Article 38.43, Code of Criminal Procedure, is
3-10 amended by amending Subsection (c) and adding Subsection (c-1) to
3-11 read as follows:

3-12 (c) An entity or individual described by Subsection (b)
3-13 shall ensure that biological evidence, other than the contents of a
3-14 sexual assault examination kit subject to Subsection (c-1),
3-15 collected pursuant to an investigation or prosecution of a felony
3-16 offense or conduct constituting a felony offense is retained and
3-17 preserved:

3-18 (1) for not less than 40 years, or until any [~~the~~]
3-19 applicable statute of limitations has expired, if there is an
3-20 unapprehended actor associated with the offense; or

3-21 (2) in a case in which a defendant has been convicted,
3-22 placed on deferred adjudication community supervision, or
3-23 adjudicated as having engaged in delinquent conduct and there are
3-24 no additional unapprehended actors associated with the offense:

3-25 (A) until the inmate is executed, dies, or is
3-26 released on parole, if the defendant is convicted of a capital
3-27 felony;

3-28 (B) until the defendant dies, completes the
3-29 defendant's sentence, or is released on parole or mandatory
3-30 supervision, if the defendant is sentenced to a term of confinement
3-31 or imprisonment in the Texas Department of Criminal Justice;

3-32 (C) until the defendant completes the
3-33 defendant's term of community supervision, including deferred
3-34 adjudication community supervision, if the defendant is placed on
3-35 community supervision;

3-36 (D) until the defendant dies, completes the
3-37 defendant's sentence, or is released on parole, mandatory
3-38 supervision, or juvenile probation, if the defendant is committed
3-39 to the Texas Juvenile Justice Department; or

3-40 (E) until the defendant completes the
3-41 defendant's term of juvenile probation, including a term of
3-42 community supervision upon transfer of supervision to a criminal
3-43 court, if the defendant is placed on juvenile probation.

3-44 (c-1) An entity or individual described by Subsection (b)
3-45 shall ensure that the contents of a sexual assault examination kit
3-46 collected pursuant to an investigation or prosecution of a felony
3-47 offense or conduct constituting a felony offense is retained and
3-48 preserved for not less than 40 years, or until any applicable
3-49 statute of limitations has expired, whichever period is longer.
3-50 This subsection applies regardless of whether a person has been
3-51 apprehended for or charged with committing the offense.

3-52 SECTION 4. Article 56.065, Code of Criminal Procedure, is
3-53 amended by amending Subsection (g) and adding Subsections (g-1),
3-54 (g-2), and (g-3) to read as follows:

3-55 (g) The department, consistent with Chapter 420, Government
3-56 Code, shall develop procedures for:

3-57 (1) the transfer [~~and preservation~~] of evidence
3-58 collected under this article to a crime laboratory or other
3-59 suitable location designated by the public safety director of the
3-60 department;

3-61 (2) the preservation of the evidence by the receiving
3-62 entity; and

3-63 (3) the notification of the victim of the offense
3-64 before a planned destruction of evidence under this article.

3-65 (g-1) Subject to Subsection (g-2), an [~~The receiving~~]
3-66 entity receiving evidence described by Subsection (g) shall
3-67 preserve the evidence until the earlier of:

3-68 (1) the fifth [~~second~~] anniversary of the date on
3-69 which [~~the~~] evidence was collected; or

4-1 (2) the date on which written consent to release the
4-2 evidence is obtained as provided by Section 420.0735, Government
4-3 Code.

4-4 (g-2) An entity receiving evidence described by Subsection
4-5 (g) may destroy the evidence on the expiration of the entity's duty
4-6 to preserve the evidence under Subsection (g-1)(1) only if:

4-7 (1) the entity provides written notification to the
4-8 victim of the offense, in a trauma-informed manner, of the decision
4-9 to destroy the evidence that includes:

4-10 (A) detailed instructions on how the victim may
4-11 make a written objection to the decision, including contact
4-12 information for the entity; or

4-13 (B) a standard form for the victim to complete
4-14 and return to the entity to make a written objection to the
4-15 decision; and

4-16 (2) a written objection is not received by the entity
4-17 from the victim before the 91st day after the date on which the
4-18 entity notifies the victim of the planned destruction of the
4-19 evidence.

4-20 (g-3) The entity shall document the entity's attempt to
4-21 notify the victim under Subsection (g-2).

4-22 SECTION 5. Section 420.003, Government Code, is amended by
4-23 amending Subdivisions (1-a), (1-d), and (8) and adding Subdivision
4-24 (3) to read as follows:

4-25 (1-a) "Active criminal case" means a case:

4-26 (A) in which:

4-27 (i) a sexual assault or other sex offense
4-28 has been reported to a law enforcement agency; and

4-29 (ii) physical evidence of the offense
4-30 [~~assault~~] has been submitted to the agency or an accredited crime
4-31 laboratory under this chapter for analysis; and

4-32 (B) for which:

4-33 (i) the statute of limitations has not run
4-34 with respect to the prosecution of the offense [~~sexual assault~~]; or

4-35 (ii) a DNA profile was obtained that is
4-36 eligible under Section 420.043 for comparison with DNA profiles in
4-37 the state database or CODIS DNA database.

4-38 (1-d) "Law enforcement agency" means a state or local
4-39 law enforcement agency in this state with jurisdiction over the
4-40 investigation of a sexual assault or other sex offense.

4-41 (3) "Sex offense" means an offense under Chapter 21,
4-42 Penal Code, for which biological evidence is collected in an
4-43 evidence collection kit.

4-44 (8) "Survivor" means an individual who is a victim of a
4-45 sexual assault or other sex offense, regardless of whether a report
4-46 or conviction is made in the incident.

4-47 SECTION 6. Section 420.033, Government Code, is amended to
4-48 read as follows:

4-49 Sec. 420.033. CHAIN OF CUSTODY. Medical, law enforcement,
4-50 department, and laboratory personnel who handle [~~sexual assault~~]
4-51 evidence of a sexual assault or other sex offense under this chapter
4-52 or other law shall maintain the chain of custody of the evidence
4-53 from the time the evidence is collected until the time the evidence
4-54 is destroyed.

4-55 SECTION 7. Subchapter B, Chapter 420, Government Code, is
4-56 amended by adding Section 420.035 to read as follows:

4-57 Sec. 420.035. EVIDENCE RELEASE. (a) If a health care
4-58 facility or other entity that performs a medical examination to
4-59 collect evidence of a sexual assault or other sex offense receives
4-60 signed, written consent to release the evidence as provided by
4-61 Section 420.0735, the facility or entity shall promptly notify any
4-62 law enforcement agency investigating the alleged offense.

4-63 (b) Except as provided by Subsection (c), a law enforcement
4-64 agency that receives notice from a health care facility or other
4-65 entity under Subsection (a) shall take possession of the evidence
4-66 not later than the seventh day after the date the law enforcement
4-67 agency receives notice.

4-68 (c) A law enforcement agency that receives notice from a
4-69 health care facility or other entity that is located more than 100

5-1 miles from the law enforcement agency shall take possession of the
 5-2 evidence not later than the 14th day after the date the law
 5-3 enforcement agency receives notice.

5-4 (d) Failure to comply with evidence collection procedures
 5-5 or requirements under this section does not affect the
 5-6 admissibility of the evidence in a trial of the offense.

5-7 SECTION 8. Subchapter B-1, Chapter 420, Government Code, is
 5-8 amended to read as follows:

5-9 SUBCHAPTER B-1. ANALYSIS OF [~~SEXUAL ASSAULT~~] EVIDENCE OF SEXUAL
 5-10 ASSAULT OR OTHER SEX OFFENSE

5-11 Sec. 420.041. APPLICABILITY OF SUBCHAPTER. This subchapter
 5-12 applies only to physical evidence of a sexual assault or other sex
 5-13 offense that is collected with respect to an active criminal case.

5-14 Sec. 420.042. ANALYSIS OF [~~SEXUAL ASSAULT~~] EVIDENCE. (a) A
 5-15 law enforcement agency that receives [~~sexual assault~~] evidence of a
 5-16 sexual assault or other sex offense that is collected under this
 5-17 chapter or other law shall submit that evidence to a public
 5-18 accredited crime laboratory for analysis not later than the 30th
 5-19 day after the date on which that evidence was received.

5-20 (b) A person who submits [~~sexual assault~~] evidence of a
 5-21 sexual assault or other sex offense to a public accredited crime
 5-22 laboratory under this chapter or other law shall provide the
 5-23 following signed, written certification with each submission:
 5-24 "This evidence is being submitted by (name of person making
 5-25 submission) in connection with a criminal investigation."

5-26 (c) If sufficient personnel and resources are available, a
 5-27 public accredited crime laboratory, as soon as practicable but not
 5-28 later than the 90th day after the date on which the laboratory
 5-29 received the evidence, shall complete its analysis of [~~sexual
 5-30 assault~~] evidence of a sexual assault or other sex offense that is
 5-31 submitted under this chapter or other law.

5-32 (d) To ensure the expeditious completion of analyses, the
 5-33 department and other applicable public accredited crime
 5-34 laboratories may contract with private accredited crime
 5-35 laboratories as appropriate to perform those analyses, subject to
 5-36 the necessary quality assurance reviews by the public accredited
 5-37 crime laboratories.

5-38 (e) The failure of a law enforcement agency to take
 5-39 possession of evidence of a sexual assault or other sex offense
 5-40 within the period required by Section 420.035 or to submit that
 5-41 [~~sexual assault~~] evidence within the period required by this
 5-42 section does not affect the authority of:

5-43 (1) the agency to take possession of the evidence;
 5-44 (2) the agency to submit the evidence to an accredited
 5-45 crime laboratory for analysis; ~~or~~

5-46 (3) ~~(2)~~ an accredited crime laboratory to analyze
 5-47 the evidence or provide the results of that analysis to appropriate
 5-48 persons; or

5-49 (4) the department or a public accredited crime
 5-50 laboratory authorized under Section 420.043(b) to compare the DNA
 5-51 profile obtained from the biological evidence with DNA profiles in
 5-52 the databases described by Section 420.043(a).

5-53 (f) Failure to comply with the requirements under this
 5-54 section does not affect the admissibility of the evidence in a trial
 5-55 of the offense.

5-56 Sec. 420.043. DATABASE COMPARISON REQUIRED. (a) Not later
 5-57 than the 30th day after the date ~~[On the request of any appropriate
 5-58 person and after]~~ an evidence collection kit containing biological
 5-59 evidence has been analyzed by an accredited crime laboratory and
 5-60 any necessary quality assurance reviews have been performed, except
 5-61 as provided by Subsection (b), the department shall compare the DNA
 5-62 profile obtained from the biological evidence with DNA profiles
 5-63 maintained in:

5-64 (1) state databases, including the DNA database
 5-65 maintained under Subchapter G, Chapter 411, if the amount and
 5-66 quality of the analyzed sample meet the requirements of the state
 5-67 database comparison policies; and

5-68 (2) the CODIS DNA database established by the Federal
 5-69 Bureau of Investigation, if the amount and quality of the analyzed

6-1 sample meet the requirements of the bureau's CODIS comparison
6-2 policies.

6-3 (b) If the evidence kit containing biological evidence is
6-4 analyzed by a public accredited crime laboratory, the laboratory,
6-5 instead of the department, may perform the comparison of DNA
6-6 profiles required under Subsection (a) provided that:

6-7 (1) the laboratory performs the comparison not later
6-8 than the 30th day after the date the analysis is complete and any
6-9 necessary quality assurance reviews have been performed;

6-10 (2) the law enforcement agency that submitted the
6-11 evidence collection kit containing biological evidence gives
6-12 permission; and

6-13 (3) the laboratory meets applicable federal and state
6-14 requirements to access the databases described by Subsection (a).

6-15 (c) The department may use appropriated funds to employ
6-16 personnel and purchase equipment and technology necessary to comply
6-17 with the requirements of this section.

6-18 Sec. 420.044. GRANT FUNDS. The department shall apply for
6-19 any available federal grant funds applicable to the analysis of
6-20 evidence collection kits containing biological evidence, including
6-21 grant money available under the National Institute of Justice's DNA
6-22 Capacity Enhancement and Backlog Reduction Program.

6-23 Sec. 420.045. REPORT OF UNANALYZED EVIDENCE OF SEXUAL
6-24 ASSAULT OR OTHER SEX OFFENSE. Each law enforcement agency and
6-25 public accredited crime laboratory shall submit a quarterly report
6-26 to the department identifying the number of evidence collection
6-27 kits that the law enforcement agency has not yet submitted for
6-28 laboratory analysis or for which the crime laboratory has not yet
6-29 completed an analysis, as applicable.

6-30 Sec. 420.046. NONCOMPLIANCE. Failure to comply with the
6-31 requirements of this subchapter may be used to determine
6-32 eligibility for receiving grant funds from the department, the
6-33 office of the governor, or another state agency.

6-34 Sec. 420.047. AUDIT OF UNANALYZED EVIDENCE OF SEXUAL
6-35 ASSAULT OR OTHER SEX OFFENSE. (a) A law enforcement agency in
6-36 possession of an evidence collection kit that has not been
6-37 submitted for laboratory analysis shall:

6-38 (1) not later than December 15, 2019, submit to the
6-39 department a list of the agency's active criminal cases for which an
6-40 evidence collection kit collected on or before September 1, 2019,
6-41 has not yet been submitted for laboratory analysis;

6-42 (2) not later than January 15, 2020, and subject to the
6-43 availability of laboratory storage space, submit to the department
6-44 or a public accredited crime laboratory, as appropriate, all
6-45 evidence collection kits pertaining to those active criminal cases
6-46 that have not yet been submitted for laboratory analysis; and

6-47 (3) if the law enforcement agency submits an evidence
6-48 collection kit under Subdivision (2) to a laboratory other than a
6-49 department laboratory, notify the department of:

6-50 (A) the laboratory to which the evidence
6-51 collection kit was sent; and

6-52 (B) any analysis completed by the laboratory to
6-53 which the evidence collection kit was sent and the date on which the
6-54 analysis was completed.

6-55 (b) Not later than September 1, 2020, the department shall
6-56 submit to the governor and the appropriate standing committees of
6-57 the senate and the house of representatives a report containing:

6-58 (1) a projected timeline for the completion of
6-59 laboratory analyses, in accordance with this chapter, of all
6-60 unanalyzed evidence collection kits submitted under Subsection
6-61 (a)(2);

6-62 (2) a request for any necessary funding to accomplish
6-63 the analyses under Subdivision (1), including a request for a grant
6-64 of money under Article 102.056(e), Code of Criminal Procedure, if
6-65 money is available under that subsection;

6-66 (3) as appropriate, application materials for
6-67 requests made as required by Subdivision (2); and

6-68 (4) if the department determines that outsourcing
6-69 certain evidence collection kits is necessary for timely analyses

7-1 of the kits:

7-2 (A) a proposal for determining which evidence
7-3 collection kits should be outsourced; and

7-4 (B) a list of laboratories the department
7-5 determines are capable of completing the outsourced analyses.

7-6 (c) Not later than September 1, 2022, and to the extent that
7-7 funding is available, the department shall, as provided by Sections
7-8 420.042 and 420.043, analyze or contract for the analysis of, and
7-9 complete the required database comparison, or ensure that a public
7-10 accredited laboratory completed the comparison, regarding all
7-11 evidence collection kits submitted to the department under
7-12 Subsection (a)(2).

7-13 (d) Notwithstanding Subsection (c), the department is not
7-14 required to use under this section in a state fiscal year any amount
7-15 of money from the state highway fund that exceeds the amount the
7-16 department has historically used in a state fiscal year to fund
7-17 laboratory analyses of evidence collection kits under this chapter.

7-18 (e) To supplement funding of laboratory analyses under this
7-19 section, the department may solicit and receive grants, gifts, or
7-20 donations of money from the federal government or private sources
7-21 as described by this chapter.

7-22 (f) This section expires September 1, 2023.

7-23 SECTION 9. Section 323.005, Health and Safety Code, is
7-24 amended by amending Subsection (a) and adding Subsection (d) to
7-25 read as follows:

7-26 (a) The department shall develop a standard information
7-27 form for sexual assault survivors that must include:

7-28 (1) a detailed explanation of the forensic medical
7-29 examination required to be provided by law, including a statement
7-30 that photographs may be taken of the genitalia;

7-31 (2) information regarding treatment of sexually
7-32 transmitted infections and pregnancy, including:

7-33 (A) generally accepted medical procedures;

7-34 (B) appropriate medications; and

7-35 (C) any contraindications of the medications
7-36 prescribed for treating sexually transmitted infections and
7-37 preventing pregnancy;

7-38 (3) information regarding drug-facilitated sexual
7-39 assault, including the necessity for an immediate urine test for
7-40 sexual assault survivors who may have been involuntarily drugged;

7-41 (4) information regarding crime victims compensation,
7-42 including:

7-43 (A) a statement that public agencies are
7-44 responsible for paying for the forensic portion of an examination
7-45 conducted under Article 56.06 or 56.065, Code of Criminal
7-46 Procedure, and for the evidence collection kit used in connection
7-47 with the examination[+;

7-48 ~~[(i) a law enforcement agency will pay for~~
7-49 ~~the forensic portion of an examination requested by the agency~~
7-50 ~~under Article 56.06, Code of Criminal Procedure, and for the~~
7-51 ~~evidence collection kit; or~~

7-52 ~~[(ii) the Department of Public Safety will~~
7-53 ~~pay the appropriate fees for the forensic portion of an examination~~
7-54 ~~conducted under Article 56.065, Code of Criminal Procedure, and for~~
7-55 ~~the evidence collection kit]; and~~

7-56 (B) [reimbursement] information regarding the
7-57 reimbursement of the survivor for the medical portion of the
7-58 examination;

7-59 (5) an explanation that consent for the forensic
7-60 medical examination may be withdrawn at any time during the
7-61 examination;

7-62 (6) the name and telephone number of sexual assault
7-63 crisis centers statewide; and

7-64 (7) information regarding postexposure prophylaxis
7-65 for HIV infection.

7-66 (d) In addition to providing the information form described
7-67 by Subsection (a), a health care facility shall ensure that the
7-68 information described by Subsection (a)(4)(A) is orally
7-69 communicated to the survivor.

8-1 SECTION 10. Chapter 323, Health and Safety Code, is amended
8-2 by adding Section 323.0052 to read as follows:

8-3 Sec. 323.0052. INFORMATION FORM FOR SEXUAL ASSAULT
8-4 SURVIVORS WHO HAVE NOT REPORTED ASSAULT. (a) The department shall
8-5 develop a standard information form that, as described by
8-6 Subsection (b), is to be provided to sexual assault survivors who
8-7 have not given signed, written consent to a health care facility to
8-8 release the evidence as provided by Section 420.0735, Government
8-9 Code. The form must include the following information:

8-10 (1) the Department of Public Safety's policy regarding
8-11 storage of evidence of a sexual assault or other sex offense that is
8-12 collected under Article 56.065, Code of Criminal Procedure,
8-13 including:

8-14 (A) a statement that the evidence will be stored
8-15 until the fifth anniversary of the date on which the evidence was
8-16 collected before the evidence becomes eligible for destruction; and

8-17 (B) the department's procedures regarding the
8-18 notification of the survivor before a planned destruction of the
8-19 evidence;

8-20 (2) a statement that the survivor may request the
8-21 release of the evidence to a law enforcement agency and report a
8-22 sexual assault or other sex offense to the agency at any time;

8-23 (3) the name, phone number, and e-mail address of the
8-24 law enforcement agency with jurisdiction over the offense; and

8-25 (4) the name and phone number of a local rape crisis
8-26 center.

8-27 (b) A health care facility that provides care to a sexual
8-28 assault survivor who has not given consent as described by
8-29 Subsection (a) shall provide the standard form developed under
8-30 Subsection (a) to the survivor before the survivor is released from
8-31 the facility.

8-32 SECTION 11. The change in law made by this Act to Article
8-33 12.01, Code of Criminal Procedure, does not apply to an offense if
8-34 the prosecution of that offense becomes barred by limitation before
8-35 the effective date of this Act. The prosecution of that offense
8-36 remains barred as if this Act had not taken effect.

8-37 SECTION 12. The change in law made by this Act to Article
8-38 38.43, Code of Criminal Procedure, applies only to biological
8-39 evidence destroyed on or after the effective date of this Act.
8-40 Biological evidence destroyed before the effective date of this Act
8-41 is governed by the law that was in effect immediately before the
8-42 effective date of this Act, and the former law is continued in
8-43 effect for that purpose.

8-44 SECTION 13. (a) Except as provided by this section, the
8-45 changes in law made by this Act to Article 56.065, Code of Criminal
8-46 Procedure, and Chapter 420, Government Code, apply only to sexual
8-47 assault evidence and evidence of other sex offenses collected on or
8-48 after the effective date of this Act. Evidence collected before the
8-49 effective date of this Act is governed by the law in effect on the
8-50 date the evidence was collected, and the former law is continued in
8-51 effect for that purpose.

8-52 (b) The change in law made by this Act to Section
8-53 420.042(c), Government Code, applies only to sexual assault
8-54 evidence and evidence of other sex offenses received by a public
8-55 accredited crime laboratory on or after January 1, 2021. Evidence
8-56 received by a public accredited crime laboratory before January 1,
8-57 2021, is governed by the law in effect immediately before the
8-58 effective date of this Act, and the former law is continued in
8-59 effect for that purpose.

8-60 (c) Notwithstanding Section 420.046, Government Code, as
8-61 added by this Act, a law enforcement agency's or public accredited
8-62 crime laboratory's failure to comply with the requirements of
8-63 Subchapter B-1, Chapter 420, Government Code, as amended by this
8-64 Act, before January 15, 2020, does not affect the agency's or
8-65 laboratory's eligibility for grants if the agency or laboratory is
8-66 in compliance with Subchapter B-1, Chapter 420, Government Code, as
8-67 amended by this Act, beginning on that date.

8-68 (d) Section 420.047, Government Code, as added by this Act,
8-69 applies to an evidence collection kit in possession of a law

9-1 enforcement agency on September 1, 2019.

9-2 SECTION 14. The Department of Public Safety of the State of
9-3 Texas and the Department of State Health Services are required to
9-4 implement a provision of this Act only if the legislature
9-5 appropriates money specifically for that purpose. If the
9-6 legislature does not appropriate money specifically for that
9-7 purpose, those agencies may, but are not required to, implement a
9-8 provision of this Act using other appropriations available for that
9-9 purpose.

9-10 SECTION 15. This Act takes effect September 1, 2019.

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