

By: Neave, Blanco, Minjarez, Guillen,
Swanson, et al.

H.B. No. 616

A BILL TO BE ENTITLED

1 AN ACT
2 relating to reimbursement for a certain portion of a forensic
3 medical examination of a sexual assault survivor and for the
4 evidence collection kit required for the examination.

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

6 SECTION 1. Article 56.01, Code of Criminal Procedure, is
7 amended by adding Subdivision (2-b) to read as follows:

8 (2-b) "Sexual assault examiner" and "sexual assault
9 nurse examiner" have the meanings assigned by Section 420.003,
10 Government Code.

11 SECTION 2. Article 56.021(a), Code of Criminal Procedure,
12 is amended to read as follows:

13 (a) In addition to the rights enumerated in Article 56.02,
14 if the offense is a sexual assault, the victim, guardian of a
15 victim, or close relative of a deceased victim is entitled to the
16 following rights within the criminal justice system:

17 (1) if requested, the right to a disclosure of
18 information regarding any evidence that was collected during the
19 investigation of the offense, unless disclosing the information
20 would interfere with the investigation or prosecution of the
21 offense, in which event the victim, guardian, or relative shall be
22 informed of the estimated date on which that information is
23 expected to be disclosed;

24 (2) if requested, the right to a disclosure of

1 information regarding the status of any analysis being performed of
2 any evidence that was collected during the investigation of the
3 offense;

4 (3) if requested, the right to be notified:

5 (A) at the time a request is submitted to a crime
6 laboratory to process and analyze any evidence that was collected
7 during the investigation of the offense;

8 (B) at the time of the submission of a request to
9 compare any biological evidence collected during the investigation
10 of the offense with DNA profiles maintained in a state or federal
11 DNA database; and

12 (C) of the results of the comparison described by
13 Paragraph (B), unless disclosing the results would interfere with
14 the investigation or prosecution of the offense, in which event the
15 victim, guardian, or relative shall be informed of the estimated
16 date on which those results are expected to be disclosed;

17 (4) if requested, the right to counseling regarding
18 acquired immune deficiency syndrome (AIDS) and human
19 immunodeficiency virus (HIV) infection;

20 (5) for the victim of the offense, testing for
21 acquired immune deficiency syndrome (AIDS), human immunodeficiency
22 virus (HIV) infection, antibodies to HIV, or infection with any
23 other probable causative agent of AIDS; and

24 (6) to the extent provided by Articles [56.06](#) and
25 [56.065](#), for the victim of the offense, the right to a forensic
26 medical examination if, within 120 [~~96~~] hours of the offense, the
27 offense is reported to a law enforcement agency or a forensic

1 medical examination is otherwise conducted at a health care
2 facility.

3 SECTION 3. Article 56.06, Code of Criminal Procedure, is
4 amended by amending Subsections (a), (b), and (f) and adding
5 Subsections (a-1), (b-1), (b-2), (b-3), (b-4), (b-5), (g), and (h)
6 to read as follows:

7 (a) This article applies to health care facilities
8 described by Article 56.065.

9 (a-1) If a sexual assault is reported to a law enforcement
10 agency within 120 [~~96~~] hours of the assault, the law enforcement
11 agency, with the consent of the victim, a person authorized to act
12 on behalf of the victim, or an employee of the Department of Family
13 and Protective Services, shall request a forensic medical
14 examination of the victim of the alleged assault for use in the
15 investigation or prosecution of the offense. A law enforcement
16 agency may decline to request a forensic medical examination under
17 this subsection only if:

18 (1) the sexual assault was not reported to the law
19 enforcement agency within the period described by this subsection;
20 or

21 (2) the person reporting the sexual assault has made
22 one or more false reports of sexual assault to any law enforcement
23 agency and [~~if~~] there is no other evidence to corroborate the
24 current allegations of sexual assault.

25 (b) If a sexual assault is not reported within the period
26 described by Subsection (a-1) [~~(a)~~], on receiving the consent
27 described by that subsection the law enforcement agency may request

1 a forensic medical examination of a victim of an alleged sexual
2 assault as considered necessary [~~appropriate~~] by the agency.

3 (b-1) If a sexual assault is reported to a law enforcement
4 agency as provided by Subsection (a-1) or (b), the law enforcement
5 agency shall document, in the form and manner required by the
6 attorney general, whether the agency requested a forensic medical
7 examination. The law enforcement agency shall:

8 (1) provide the documentation of the agency's decision
9 regarding a request for a forensic medical examination to:

10 (A) the health care facility and the sexual
11 assault examiner or sexual assault nurse examiner, as applicable,
12 that provides services to the victim that are related to the sexual
13 assault; and

14 (B) the victim or the person who consented to the
15 forensic medical examination on behalf of the victim; and

16 (2) maintain the documentation of the agency's
17 decision in accordance with the agency's record retention policies.

18 (b-2) On application to the attorney general, a health care
19 facility that provides a forensic medical examination to a sexual
20 assault survivor in accordance with this article, or the sexual
21 assault examiner or sexual assault nurse examiner who conducts that
22 examination, as applicable, is entitled to be reimbursed in an
23 amount set by attorney general rule for:

24 (1) the reasonable costs of the forensic portion of
25 that examination; and

26 (2) the evidence collection kit.

27 (b-3) The application under Subsection (b-2) must be in the

1 form and manner prescribed by the attorney general and must
2 include:

3 (1) the documentation that the law enforcement agency
4 requested the forensic medical examination, as required under
5 Subsection (b-1); and

6 (2) a complete and itemized bill of the reasonable
7 costs of the forensic portion of the examination.

8 (b-4) A health care facility or a sexual assault examiner or
9 sexual assault nurse examiner, as applicable, that applies for
10 reimbursement under Subsection (b-2) shall accept reimbursement
11 from the attorney general as payment for the costs unless an
12 investigation of the costs by the attorney general determines that
13 there is a reasonable health care justification for a deviation.

14 (b-5) A health care facility is not entitled to
15 reimbursement under this article unless the forensic medical
16 examination was conducted at the facility by a physician, sexual
17 assault examiner, or sexual assault nurse examiner.

18 (f) The attorney general may make a payment to or on behalf
19 of an individual for the reasonable and necessary costs incurred
20 for medical care provided in accordance with Section [323.004](#),
21 Health and Safety Code.

22 (g) The attorney general shall adopt rules necessary to
23 implement this article.

24 (h) On request, the attorney general may provide training to
25 a health care facility regarding the process for applying for
26 reimbursement under this article.

27 SECTION 4. Article [56.065](#), Code of Criminal Procedure, is

1 amended by amending Subsections (c) and (k) and adding Subsections
2 (c-1), (c-2), (c-3), (c-4), and (l) to read as follows:

3 (c) In accordance with Subchapter B, Chapter 420,
4 Government Code, and except as provided by Subsection (e), a health
5 care facility shall conduct a forensic medical examination of the
6 victim of an alleged sexual assault if:

7 (1) the victim arrives at the facility within 120 [~~96~~]
8 hours after the assault occurred;

9 (2) the victim consents to the examination; and

10 (3) at the time of the examination the victim has not
11 reported the assault to a law enforcement agency.

12 (c-1) On application to the attorney general, a health care
13 facility that provides a forensic medical examination to a sexual
14 assault survivor in accordance with this article, or the sexual
15 assault examiner or sexual assault nurse examiner who conducts that
16 examination, as applicable, within 120 hours after the alleged
17 sexual assault occurred is entitled to be reimbursed in an amount
18 set by attorney general rule for:

19 (1) the reasonable costs of the forensic portion of
20 that examination; and

21 (2) the evidence collection kit.

22 (c-2) The application under Subsection (c-1) must be in the
23 form and manner prescribed by the attorney general and must
24 include:

25 (1) certification that the examination was conducted
26 in accordance with the requirements of Subsection (c); and

27 (2) a complete and itemized bill of the reasonable

1 costs of the forensic portion of the examination.

2 (c-3) A health care facility or a sexual assault examiner or
3 sexual assault nurse examiner, as applicable, that applies for
4 reimbursement under Subsection (c-1) shall accept reimbursement
5 from the attorney general as payment for the costs unless an
6 investigation of the costs by the attorney general determines that
7 there is a reasonable health care justification for a deviation.

8 (c-4) A health care facility is not entitled to
9 reimbursement under this article unless the forensic medical
10 examination was conducted at the facility by a physician, sexual
11 assault examiner, or sexual assault nurse examiner.

12 (k) The attorney general may make a payment to or on behalf
13 of an individual for the reasonable and necessary costs incurred
14 for medical care provided in accordance with Section 323.004,
15 Health and Safety Code.

16 (l) On request, the attorney general may provide training to
17 a health care facility regarding the process for applying for
18 reimbursement under this article.

19 SECTION 5. Article 56.54(k), Code of Criminal Procedure, is
20 amended to read as follows:

21 (k) The attorney general may use the compensation to victims
22 of crime fund to:

23 (1) reimburse a health care facility or a sexual
24 assault examiner or sexual assault nurse examiner for certain costs
25 of a forensic medical examination that are incurred by the facility
26 or the examiner [~~reimburse a law enforcement agency for the~~
27 ~~reasonable costs of a forensic medical examination that are~~

1 ~~incurred by the agency]~~ under Article 56.06 or 56.065, as provided
2 by those articles; and

3 (2) make a payment to or on behalf of an individual for
4 the reasonable costs incurred for medical care provided under
5 Article 56.06 or 56.065 in accordance with Section 323.004, Health
6 and Safety Code.

7 SECTION 6. Section 323.005(a), Health and Safety Code, is
8 amended to read as follows:

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

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

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

16 (A) generally accepted medical procedures;

17 (B) appropriate medications; and

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

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

24 (4) information regarding crime victims compensation,
25 including:

26 (A) a statement that public agencies are
27 responsible for paying for the forensic portion of an examination

1 conducted under Article 56.06 or 56.065, Code of Criminal
2 Procedure, and for the evidence collection kit used in connection
3 with the examination and that the health care facility or provider,
4 as applicable, is responsible for seeking reimbursement for those
5 costs[+]

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

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

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

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

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

22 (7) information regarding postexposure prophylaxis
23 for HIV infection.

24 SECTION 7. Section 323.0051(a), Health and Safety Code, is
25 amended to read as follows:

26 (a) The department shall develop a standard information
27 form for sexual assault survivors who arrive at a health care

1 facility that is not a SAFE-ready facility. The information form
2 must include:

3 (1) information regarding the benefits of a forensic
4 medical examination conducted by a sexual assault forensic
5 examiner;

6 (2) the Internet website address to the department's
7 list of SAFE-ready facilities that includes the facilities'
8 physical addresses as required by Section 323.008;

9 (3) the following statements:

10 (A) "As a survivor of sexual assault, you have
11 the right to receive a forensic medical examination at this
12 hospital emergency room if you are requesting the examination not
13 later than 120 [~~96~~] hours after the assault.";

14 (B) "A report to law enforcement is not required,
15 but if you make a report, law enforcement must first authorize the
16 examination."; and

17 (C) "Call 1-800-656-HOPE to be connected to a
18 rape crisis center for free and confidential assistance."; and

19 (4) information on the procedure for submitting a
20 complaint against the health care facility.

21 SECTION 8. The following provisions are repealed:

22 (1) Article 56.06(c), Code of Criminal Procedure;

23 (2) Articles 56.065(a)(3) and (d), Code of Criminal
24 Procedure; and

25 (3) Section 420.031(d), Government Code.

26 SECTION 9. The change in law made by this Act applies to a
27 forensic medical examination that occurs on or after the effective

1 date of this Act. A forensic medical examination that occurs before
2 the effective date of this Act is governed by the law as it existed
3 immediately before that date, and the former law is continued in
4 effect for that purpose.

5 SECTION 10. This Act takes effect September 1, 2019.