

AN ACT

relating to reimbursement for a certain 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 56.01, Code of Criminal Procedure, is amended by adding Subdivision (2-b) to read as follows:

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

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

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

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

(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) and (b) and adding Subsections
5 (a-1), (b-1), (b-2), (b-3), (b-4), (b-5), (g), and (h) to read as
6 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 the person reporting the sexual assault has
18 made one or more false reports of sexual assault to any law
19 enforcement agency and if there is no other evidence to corroborate
20 the current allegations of sexual assault.

21 (b) If a sexual assault is not reported within the period
22 described by Subsection (a-1) [~~(a)~~], on receiving the consent
23 described by that subsection the law enforcement agency may request
24 a forensic medical examination of a victim of an alleged sexual
25 assault as considered appropriate by the agency.

26 (b-1) If a sexual assault is reported to a law enforcement
27 agency as provided by Subsection (a-1) or (b), the law enforcement

1 agency shall document, in the form and manner required by the
2 attorney general, whether the agency requested a forensic medical
3 examination. The law enforcement agency shall:

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

6 (A) the health care facility and the sexual
7 assault examiner or sexual assault nurse examiner, as applicable,
8 who provides services to the victim that are related to the sexual
9 assault; and

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

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

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

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

22 (2) the evidence collection kit.

23 (b-3) The application under Subsection (b-2) must be in the
24 form and manner prescribed by the attorney general and must
25 include:

26 (1) the documentation that the law enforcement agency
27 requested the forensic medical examination, as required under

1 Subsection (b-1); and

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

4 (b-4) A health care facility or a sexual assault examiner or
5 sexual assault nurse examiner, as applicable, who applies for
6 reimbursement under Subsection (b-2) shall accept reimbursement
7 from the attorney general as payment for the costs unless:

8 (1) the health care facility or sexual assault
9 examiner or sexual assault nurse examiner, as applicable:

10 (A) requests, in writing, additional
11 reimbursement from the attorney general; and

12 (B) provides documentation in support of the
13 additional reimbursement, as reasonably requested by the attorney
14 general; and

15 (2) the attorney general determines that there is a
16 reasonable justification for additional reimbursement.

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

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

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

26 SECTION 4. Article 56.065, Code of Criminal Procedure, is
27 amended by amending Subsection (c) and adding Subsections (c-1),

1 (c-2), (c-3), (c-4), and (1) to read as follows:

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

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

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

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

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

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

20 (2) the evidence collection kit.

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

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

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

1 (c-3) A health care facility or a sexual assault examiner or
2 sexual assault nurse examiner, as applicable, who applies for
3 reimbursement under Subsection (c-1) shall accept reimbursement
4 from the attorney general as payment for the costs unless:

5 (1) the health care facility or sexual assault
6 examiner or sexual assault nurse examiner, as applicable:

7 (A) requests, in writing, additional
8 reimbursement from the attorney general; and

9 (B) provides documentation in support of the
10 additional reimbursement, as reasonably requested by the attorney
11 general; and

12 (2) the attorney general determines that there is a
13 reasonable justification for additional reimbursement.

14 (c-4) 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 (1) On request, the attorney general may provide training to
19 a health care facility regarding the process for applying for
20 reimbursement under this article.

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

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

25 (1) reimburse a health care facility or a sexual
26 assault examiner or sexual assault nurse examiner for certain costs
27 of a forensic medical examination that are incurred by the facility

1 or the examiner [~~reimburse a law enforcement agency for the~~
2 ~~reasonable costs of a forensic medical examination that are~~
3 ~~incurred by the agency]~~ under Article 56.06 or 56.065, as provided
4 by those articles; and

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

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

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

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

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

18 (A) generally accepted medical procedures;

19 (B) appropriate medications; and

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

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

26 (4) information regarding crime victims compensation,
27 including:

1 (A) a statement that public agencies are
2 responsible for paying for the forensic portion of an examination
3 conducted under Article 56.06 or 56.065, Code of Criminal
4 Procedure, and for the evidence collection kit used in connection
5 with the examination and that the health care facility or provider,
6 as applicable, is responsible for seeking reimbursement for those
7 costs[-

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

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

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

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

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

24 (7) information regarding postexposure prophylaxis
25 for HIV infection.

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

1 (a) The department shall develop a standard information
2 form for sexual assault survivors who arrive at a health care
3 facility that is not a SAFE-ready facility. The information form
4 must include:

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

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

11 (3) the following statements:

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

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

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

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

23 SECTION 8. The following provisions are repealed:

24 (1) Article [56.06\(c\)](#), Code of Criminal Procedure;

25 (2) Articles [56.065\(a\)\(3\)](#) and (d), Code of Criminal
26 Procedure; and

27 (3) Section [420.031\(d\)](#), Government Code.

1 SECTION 9. The change in law made by this Act applies to a
2 forensic medical examination that occurs on or after the effective
3 date of this Act. A forensic medical examination that occurs before
4 the effective date of this Act is governed by the law as it existed
5 immediately before that date, and the former law is continued in
6 effect for that purpose.

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

President of the Senate

Speaker of the House

I certify that H.B. No. 616 was passed by the House on April 17, 2019, by the following vote: Yeas 141, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 616 on May 24, 2019, by the following vote: Yeas 142, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 616 was passed by the Senate, with amendments, on May 22, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor