

SENATE AMENDMENTS

2nd Printing

By: Neave, Howard, Minjarez, Button, Lang,
et al.

H.B. No. 8

A BILL TO BE ENTITLED

AN ACT

relating to the criminal statute of limitations for certain sexual 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 sexual offense
5 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;

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

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

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

(A) theft or robbery;

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

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

(D) abandoning or endangering a child; or

(E) insurance fraud;

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

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

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

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

Paragraph (B) of this subdivision;

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

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

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

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

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

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

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

(1) for not less than 40 years, or until any ~~the~~ applicable statute of limitations has expired, if there is an 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:

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

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

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

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

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

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

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

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

Sec. 420.035. EVIDENCE RELEASE. (a) If a health care facility or other entity that performs a medical examination to 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 any [~~sexual~~
13 ~~assault~~] evidence of a sexual assault or other sex offense that is
14 submitted under this chapter or other law.

15 (d) To ensure the expeditious completion of analyses, the
16 department and other applicable public accredited crime
17 laboratories may contract with private accredited crime
18 laboratories as appropriate to perform those analyses, subject to
19 the necessary quality assurance reviews by the public accredited
20 crime laboratories.

21 (e) The failure of a law enforcement agency to take
22 possession of evidence of a sexual assault or other sex offense
23 within the period required by Section 420.035 or to submit that
24 [~~sexual assault~~] evidence within the period required by this
25 section does not affect the authority of:

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

27 (2) the agency to submit the evidence to an accredited

1 crime laboratory for analysis; ~~[or]~~

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

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

9 (f) Failure to comply with the requirements under this
10 section does not affect the admissibility of the evidence in a trial
11 of the offense.

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

20 (1) state databases, including the DNA database
21 maintained under Subchapter G, Chapter 411, if the amount and
22 quality of the analyzed sample meet the requirements of the state
23 database comparison policies; and

24 (2) the CODIS DNA database established by the Federal
25 Bureau of Investigation, if the amount and quality of the analyzed
26 sample meet the requirements of the bureau's CODIS comparison
27 policies.

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

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

8 (2) the law enforcement agency that submitted the
9 evidence collection kit containing biological evidence gives
10 permission; and

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

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

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

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

1 Sec. 420.046. NONCOMPLIANCE. Failure to comply with the
2 requirements of this subchapter may be used to determine
3 eligibility for receiving grant funds from the department, the
4 office of the governor, or another state agency.

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

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

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

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

21 (A) the laboratory to which the evidence
22 collection kit was sent; and

23 (B) any analysis completed by the laboratory to
24 which the evidence collection kit was sent and the date on which the
25 analysis was completed.

26 (b) Not later than September 1, 2020, the department shall
27 submit to the governor and the appropriate standing committees of

1 the senate and the house of representatives a report containing:

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

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

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

12 (4) if the department determines that outsourcing
13 certain evidence collection kits is necessary for timely analyses
14 of the kits:

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

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

19 (c) Not later than September 1, 2022, and to the extent that
20 funding is available, the department shall, as provided by Sections
21 420.042 and 420.043, analyze or contract for the analysis of, and
22 complete the required database comparison, or ensure that a public
23 accredited laboratory completed the comparison, regarding all
24 evidence collection kits submitted to the department under
25 Subsection (a)(2).

26 (d) Notwithstanding Subsection (c), the department is not
27 required to use under this section in a state fiscal year any amount

1 of money from the state highway fund that exceeds the amount the
2 department has historically used in a state fiscal year to fund
3 laboratory analyses of evidence collection kits under this chapter.

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

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

9 SECTION 9. Section 323.005, Health and Safety Code, is
10 amended by amending Subsection (a) and adding Subsection (d) to
11 read as follows:

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

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

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

19 (A) generally accepted medical procedures;

20 (B) appropriate medications; and

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

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

27 (4) information regarding crime victims compensation,

including:

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

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

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

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

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

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

(7) information regarding postexposure prophylaxis for HIV infection.

(d) In addition to providing the information form described by Subsection (a), a health care facility shall ensure that the information described by Subsection (a)(4)(A) is orally

1 communicated to the survivor.

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

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

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

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

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

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

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

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

1 (b) A health care facility that provides care to a sexual
2 assault survivor who has not given consent as described by
3 Subsection (a) shall provide the standard form developed under
4 Subsection (a) to the survivor before the survivor is released from
5 the facility.

6 SECTION 11. The change in law made by this Act to Article
7 12.01, Code of Criminal Procedure, does not apply to an offense if
8 the prosecution of that offense becomes barred by limitation before
9 the effective date of this Act. The prosecution of that offense
10 remains barred as if this Act had not taken effect.

11 SECTION 12. The change in law made by this Act to Article
12 38.43, Code of Criminal Procedure, applies only to biological
13 evidence destroyed on or after the effective date of this Act.
14 Biological evidence destroyed before the effective date of this Act
15 is governed by the law that was in effect immediately before the
16 effective date of this Act, and the former law is continued in
17 effect for that purpose.

18 SECTION 13. (a) Except as provided by this section, the
19 changes in law made by this Act to Article 56.065, Code of Criminal
20 Procedure, and Chapter 420, Government Code, apply only to sexual
21 assault evidence and evidence of other sex offenses collected on or
22 after the effective date of this Act. Evidence collected before the
23 effective date of this Act is governed by the law in effect on the
24 date the evidence was collected, and the former law is continued in
25 effect for that purpose.

26 (b) The change in law made by this Act to Section
27 420.042(c), Government Code, applies only to sexual assault

1 evidence and evidence of other sex offenses received by a public
2 accredited crime laboratory on or after January 1, 2021. Evidence
3 received by a public accredited crime laboratory before January 1,
4 2021, is governed by the law in effect immediately before the
5 effective date of this Act, and the former law is continued in
6 effect for that purpose.

7 (c) Notwithstanding Section 420.046, Government Code, as
8 added by this Act, a law enforcement agency's or public accredited
9 crime laboratory's failure to comply with the requirements of
10 Subchapter B-1, Chapter 420, Government Code, as amended by this
11 Act, before January 15, 2020, does not affect the agency's or
12 laboratory's eligibility for grants if the agency or laboratory is
13 in compliance with Subchapter B-1, Chapter 420, Government Code, as
14 amended by this Act, beginning on that date.

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

18 SECTION 14. This Act takes effect September 1, 2019.

ADOPTED

MAY 20 2019

Leta Spauld
Secretary of the Senate

By: *Jane Nelson*

H.B. No. 8

Substitute the following for H.B. No. 8:

By: SENATOR WHITMIRE

C.S.H.B. No. 8

John Whitmire

A BILL TO BE ENTITLED

AN ACT

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(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;

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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;
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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 (d) To ensure the expeditious completion of analyses, the
16 department and other applicable public accredited crime
17 laboratories may contract with private accredited crime
18 laboratories as appropriate to perform those analyses, subject to
19 the necessary quality assurance reviews by the public accredited
20 crime laboratories.

21 (e) The failure of a law enforcement agency to take
22 possession of evidence of a sexual assault or other sex offense
23 within the period required by Section 420.035 or to submit that
24 [~~sexual assault~~] evidence within the period required by this
25 section does not affect the authority of:

- 26 (1) the agency to take possession of the evidence;
27 (2) the agency to submit the evidence to an accredited

1 crime laboratory for analysis; ~~[or]~~

2 (3) ~~[(4)]~~ an accredited crime laboratory to analyze
3 the evidence or provide the results of that analysis to appropriate
4 persons; or

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

9 (f) Failure to comply with the requirements under this
10 section does not affect the admissibility of the evidence in a trial
11 of the offense.

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

20 (1) state databases, including the DNA database
21 maintained under Subchapter G, Chapter 411, if the amount and
22 quality of the analyzed sample meet the requirements of the state
23 database comparison policies; and

24 (2) the CODIS DNA database established by the Federal
25 Bureau of Investigation, if the amount and quality of the analyzed
26 sample meet the requirements of the bureau's CODIS comparison
27 policies.

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

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

8 (2) the law enforcement agency that submitted the
9 evidence collection kit containing biological evidence gives
10 permission; and

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

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

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

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

1 Sec. 420.046. NONCOMPLIANCE. Failure to comply with the
2 requirements of this subchapter may be used to determine
3 eligibility for receiving grant funds from the department, the
4 office of the governor, or another state agency.

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

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

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

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

21 (A) the laboratory to which the evidence
22 collection kit was sent; and

23 (B) any analysis completed by the laboratory to
24 which the evidence collection kit was sent and the date on which the
25 analysis was completed.

26 (b) Not later than September 1, 2020, the department shall
27 submit to the governor and the appropriate standing committees of

1 the senate and the house of representatives a report containing:

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

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

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

12 (4) if the department determines that outsourcing
13 certain evidence collection kits is necessary for timely analyses
14 of the kits:

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

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

19 (c) Not later than September 1, 2022, and to the extent that
20 funding is available, the department shall, as provided by Sections
21 420.042 and 420.043, analyze or contract for the analysis of, and
22 complete the required database comparison, or ensure that a public
23 accredited laboratory completed the comparison, regarding all
24 evidence collection kits submitted to the department under
25 Subsection (a)(2).

26 (d) Notwithstanding Subsection (c), the department is not
27 required to use under this section in a state fiscal year any amount

1 of money from the state highway fund that exceeds the amount the
2 department has historically used in a state fiscal year to fund
3 laboratory analyses of evidence collection kits under this chapter.

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

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

9 SECTION 9. Section 323.005, Health and Safety Code, is
10 amended by amending Subsection (a) and adding Subsection (d) to
11 read as follows:

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

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

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

19 (A) generally accepted medical procedures;

20 (B) appropriate medications; and

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

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

27 (4) information regarding crime victims compensation,

1 including:

2 (A) a statement that public agencies are
3 responsible for paying for the forensic portion of an examination
4 conducted under Article 56.06 or 56.065, Code of Criminal
5 Procedure, and for the evidence collection kit used in connection
6 with the examination[-

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

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

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

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

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

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

25 (d) In addition to providing the information form described
26 by Subsection (a), a health care facility shall ensure that the
27 information described by Subsection (a)(4)(A) is orally

1 communicated to the survivor.

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

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

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

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

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

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

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

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

1 (b) A health care facility that provides care to a sexual
2 assault survivor who has not given consent as described by
3 Subsection (a) shall provide the standard form developed under
4 Subsection (a) to the survivor before the survivor is released from
5 the facility.

6 SECTION 11. The change in law made by this Act to Article
7 12.01, Code of Criminal Procedure, does not apply to an offense if
8 the prosecution of that offense becomes barred by limitation before
9 the effective date of this Act. The prosecution of that offense
10 remains barred as if this Act had not taken effect.

11 SECTION 12. The change in law made by this Act to Article
12 38.43, Code of Criminal Procedure, applies only to biological
13 evidence destroyed on or after the effective date of this Act.
14 Biological evidence destroyed before the effective date of this Act
15 is governed by the law that was in effect immediately before the
16 effective date of this Act, and the former law is continued in
17 effect for that purpose.

18 SECTION 13. (a) Except as provided by this section, the
19 changes in law made by this Act to Article 56.065, Code of Criminal
20 Procedure, and Chapter 420, Government Code, apply only to sexual
21 assault evidence and evidence of other sex offenses collected on or
22 after the effective date of this Act. Evidence collected before the
23 effective date of this Act is governed by the law in effect on the
24 date the evidence was collected, and the former law is continued in
25 effect for that purpose.

26 (b) The change in law made by this Act to Section
27 420.042(c), Government Code, applies only to sexual assault

1 evidence and evidence of other sex offenses received by a public
2 accredited crime laboratory on or after January 1, 2021. Evidence
3 received by a public accredited crime laboratory before January 1,
4 2021, is governed by the law in effect immediately before the
5 effective date of this Act, and the former law is continued in
6 effect for that purpose.

7 (c) Notwithstanding Section 420.046, Government Code, as
8 added by this Act, a law enforcement agency's or public accredited
9 crime laboratory's failure to comply with the requirements of
10 Subchapter B-1, Chapter 420, Government Code, as amended by this
11 Act, before January 15, 2020, does not affect the agency's or
12 laboratory's eligibility for grants if the agency or laboratory is
13 in compliance with Subchapter B-1, Chapter 420, Government Code, as
14 amended by this Act, beginning on that date.

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

18 SECTION 14. The Department of Public Safety of the State of
19 Texas and the Department of State Health Services are required to
20 implement a provision of this Act only if the legislature
21 appropriates money specifically for that purpose. If the
22 legislature does not appropriate money specifically for that
23 purpose, those agencies may, but are not required to, implement a
24 provision of this Act using other appropriations available for that
25 purpose.

26 SECTION 15. This Act takes effect September 1, 2019.

ADOPTED

VU
MAY 20 2019

Letty Graw
Secretary of the Senate

BY:

Jane Nelson

FLOOR AMENDMENT NO. 1

1 Amend C.S.H.B. No. 8 (senate committee printing) in SECTION 8
2 of the bill, in amended Section 420.042, Government Code, between
3 Subsections (c) and (d) of that section (page 5, between lines 31
4 and 32), by inserting the following:

5 (c-1) With respect to a criminal case in which evidence of a
6 sexual assault or other sex offense is collected and the number of
7 offenders is uncertain or unknown, a public accredited crime
8 laboratory shall analyze any evidence of the sexual assault or
9 other sex offense submitted to the laboratory under this chapter or
10 other law that is necessary to identify the offender or offenders.

ADOPTED

VV
MAY 20 2019

Debra Spaul
Secretary of the Senate

FLOOR AMENDMENT NO. 2

BY: Jane Nelson

1 Amend C.S.H.B. No. 8 (senate committee report) by adding the
2 following appropriately numbered SECTION to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION _____. Chapter 420, Government Code, is amended by
5 adding Subchapter E to read as follows:

6 SUBCHAPTER E. STATEWIDE TELEHEALTH CENTER FOR SEXUAL ASSAULT

7 FORENSIC MEDICAL EXAMINATION

8 Sec. 420.101. DEFINITIONS. In this subchapter:

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

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

13 Sec. 420.102. ESTABLISHMENT OF CENTER. The attorney
14 general shall establish the statewide telehealth center for sexual
15 assault forensic medical examination to expand access to sexual
16 assault nurse examiners for underserved populations.

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

21 (1) training or technical assistance to a sexual
22 assault examiner on:

23 (A) conducting a forensic medical examination on
24 a survivor; and

25 (B) the use of telehealth services; and

26 (2) consultation services, guidance, or technical
27 assistance to a sexual assault examiner during a forensic medical
28 examination on a survivor.

29 (b) With permission from the facility or entity where a

1 forensic medical examination on a survivor is conducted and to the
2 extent authorized by other law, the center may facilitate the use of
3 telehealth services during a forensic medical examination on a
4 survivor.

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

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

10 (1) telehealth services;

11 (2) standards of professional conduct for licensure
12 and practice;

13 (3) standards of care;

14 (4) maintenance of records;

15 (5) technology requirements;

16 (6) data privacy and security of patient information;

17 and

18 (7) the operation of a telehealth center.

19 (b) The center shall make every effort to ensure the system
20 through which the center operates for the provision of telehealth
21 services meets national standards for interoperability to connect
22 to telehealth systems outside of the center.

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

26 (1) develop, implement, maintain, or operate the
27 center;

28 (2) train or provide technical assistance for health
29 care professionals on conducting forensic medical examinations and
30 the use of telehealth services; or

31 (3) provide consultation, guidance, or technical

1 assistance for health care professionals using telehealth services
2 during a forensic medical examination.

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

5 (b) The attorney general may provide funds to the center
6 for:

7 (1) establishing and maintaining the operations of the
8 center;

9 (2) training conducted by or through the center;

10 (3) travel expenses incurred by a sexual assault nurse
11 examiner for:

12 (A) carrying out the nurse's duties under Section
13 420.103(a); or

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

16 (4) equipment and software applications for the
17 center; and

18 (5) any other purpose considered appropriate by the
19 attorney general.

20 Sec. 420.107. CONSULTATION REQUIRED. In implementing this
21 subchapter, the attorney general shall consult with persons with
22 expertise in medicine and forensic medical examinations, a
23 statewide sexual assault coalition, a statewide organization with
24 expertise in the operation of children's advocacy programs, and
25 attorneys with expertise in prosecuting sexual assault offenses.

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 21, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB8 by Neave (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.), **As Passed 2nd House**

The fiscal implications of the bill cannot be determined at this time, but are likely to have a significant negative impact to the General Revenue Fund.

The Department of Public Safety of the State of Texas and the Department of State Health Services are required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, those agencies may, but are not required to, implement a provision of this Act using other appropriations available for that purpose.

Fiscal Analysis

The bill would remove statute of limitation for sexual assault if the assault has not been subject to forensic DNA testing.

The bill would require the contents of certain sexual assault exam kits, and other biological evidence, to be retained for 40 years, or until the statute of limitations expires, whichever period is longer. This provision would apply regardless of whether a person has been apprehended for or charged with committing the offense. It is assumed that the provisions of the bill relating to the statute of limitations for certain sexual offenses and the required report could be absorbed using existing resources.

The bill would require a publicly accredited crime lab to complete analysis of the evidence of a sexual assault, or other sex offense, within 90 days of receipt of the evidence. The bill expands the definition of "active criminal case" to include "other sex offenses," and sets requirements for victim notification before the destruction of evidence.

The bill would require the entity receiving sexual assault evidence to provide detailed instructions, and a standard form, to the victim regarding how they can make a written objection to the decision to destroy evidence, and document the notification.

The bill would require public accredited crime laboratories to submit a quarterly report on the number of collection kits that have not been submitted for analysis by law enforcement agencies. It also requires a completed database comparison of DNA profiles within 30 days of analysis, and

requires Department of Public Safety (DPS) to apply for applicable available federal grant funds for this purpose.

The bill would require that a standardized form be developed by the Department of State Health Services (DSHS) that provides certain information to certain victims of sexual assault, before the survivor is released from the facility, including: information regarding public agencies and their responsibility to pay for certain forensic fees and the reimbursement of medical fees for the survivor; information regarding the collection, storage, and release of evidence to law enforcement; and information regarding a local rape crisis center. The bill would require a health care facility to orally communicate this information to the survivor. It is assumed DSHS can implement the provisions of this bill within existing resources.

The bill would require that a criminal case in which evidence of a sexual assault or other sex offense is collected and the number of offenders is uncertain or unknown, a public accredited crime laboratory shall analyze any evidence of the sexual assault or other sex offense submitted to the laboratory that is necessary to identify the offender or offenders.

The bill would amend statute to establish a new Statewide Telehealth Center for Sexual Assault Forensic Medical Examination within the Office of the Attorney General. Among other responsibilities, the center is authorized to facilitate sexual assault examiner trainings and to provide consultations to sexual assault examiners either in person or via telecommunications.

The provisions of the bill would take effect September 1, 2019.

Methodology

Due to the expanded definition of "active criminal case" to include "other sex offenses", DPS cannot determine the number of unknown samples affected. The agency assumes the costs are likely to be significant.

The provisions of the bill authorize the Office of the Attorney General (OAG), in consultation with medical and forensic examination experts, a statewide sexual assault coalition, and a statewide organization with expertise in the operation of children's advocacy programs, to enter into contracts to implement the Statewide Telehealth Center for Sexual Assault Forensic Medical Examination. According to information provided by the OAG, cost estimates for contracting with a qualified medical provider would be \$500,000 per fiscal year based on comparable federal grant programs in other states.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety, 212 Office of Court Administration,
Texas Judicial Council, 529 Health and Human Services Commission

LBB Staff: WP, LBO, AI, SMi, AF

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 9, 2019

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB8 by Neave (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.), **Committee Report 2nd House, Substituted**

The fiscal implications of the bill cannot be determined at this time, but are likely to have a significant negative impact to the General Revenue Fund.

The Department of Public Safety of the State of Texas and the Department of State Health Services are required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, those agencies may, but are not required to, implement a provision of this Act using other appropriations available for that purpose.

Fiscal Analysis

The bill would remove statute of limitation for sexual assault if the assault has not been subject to forensic DNA testing.

The bill would require the contents of certain sexual assault exam kits, and other biological evidence, to be retained for 40 years, or until the statute of limitations expires, whichever period is longer. This provision would apply regardless of whether a person has been apprehended for or charged with committing the offense. It is assumed that the provisions of the bill relating to the statute of limitations for certain sexual offenses and the required report could be absorbed using existing resources.

The bill would require a publicly accredited crime lab to complete analysis of the evidence of a sexual assault, or other sex offense, within 90 days of receipt of the evidence. The bill expands the definition of "active criminal case" to include "other sex offenses," and sets requirements for victim notification before the destruction of evidence.

The bill would require the entity receiving sexual assault evidence to provide detailed instructions, and a standard form, to the victim regarding how they can make a written objection to the decision to destroy evidence, and document the notification.

The bill would require public accredited crime laboratories to submit a quarterly report on the number of collection kits that have not been submitted for analysis by law enforcement agencies. It also requires a completed database comparison of DNA profiles within 30 days of analysis, and

requires Department of Public Safety (DPS) to apply for applicable available federal grant funds for this purpose.

The bill would require that a standardized form be developed by the Department of State Health Services (DSHS) that provides certain information to certain victims of sexual assault, before the survivor is released from the facility, including: information regarding public agencies and their responsibility to pay for certain forensic fees and the reimbursement of medical fees for the survivor; information regarding the collection, storage, and release of evidence to law enforcement; and information regarding a local rape crisis center. The bill would require a health care facility to orally communicate this information to the survivor. It is assumed DSHS can implement the provisions of this bill within existing resources.

The provisions of the bill would take effect September 1, 2019.

Methodology

Due to the expanded definition of "active criminal case" to include "other sex offenses", DPS cannot determine the number of unknown samples affected. The agency assumes the costs are likely to be significant.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405
Department of Public Safety, 529 Health and Human Services
Commission

LBB Staff: WP, LBO, AI, SMi, AF

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 7, 2019

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB8 by Neave (Relating to the criminal statute of limitations for certain sexual offenses and the collection, analysis, and preservation of evidence of sexual assault and other sex offenses.), **As Engrossed**

The fiscal implications of the bill cannot be determined at this time, but are likely to have a significant negative impact to the General Revenue Fund.

Fiscal Analysis

The bill would remove statute of limitation for sexual assault if the assault has not been subject to forensic DNA testing.

The bill would require the contents of certain sexual assault exam kits, and other biological evidence, to be retained for 40 years, or until the statute of limitations expires, whichever period is longer. This provision would apply regardless of whether a person has been apprehended for or charged with committing the offense. It is assumed that the provisions of the bill relating to the statute of limitations for certain sexual offenses and the required report could be absorbed using existing resources.

The bill would require a publicly accredited crime lab to complete analysis of the evidence of a sexual assault, or other sex offense, within 90 days of receipt of the evidence. The bill expands the definition of "active criminal case" to include "other sex offenses," and sets requirements for victim notification before the destruction of evidence.

The bill would require the entity receiving sexual assault evidence to provide detailed instructions, and a standard form, to the victim regarding how they can make a written objection to the decision to destroy evidence, and document the notification.

The bill would require public accredited crime laboratories to submit a quarterly report on the number of collection kits that have not been submitted for analysis by law enforcement agencies. It also requires a completed database comparison of DNA profiles within 30 days of analysis, and requires Department of Public Safety (DPS) to apply for applicable available federal grant funds for this purpose.

The bill would require that a standardized form be developed by the Department of State Health Services (DSHS) that provides certain information to certain victims of sexual assault, before the survivor is released from the facility, including: information regarding public agencies and their

responsibility to pay for certain forensic fees and the reimbursement of medical fees for the survivor; information regarding the collection, storage, and release of evidence to law enforcement; and information regarding a local rape crisis center. The bill would require a health care facility to orally communicate this information to the survivor. It is assumed DSHS can implement the provisions of this bill within existing resources.

The provisions of the bill would take effect September 1, 2019.

Methodology

Due to the expanded definition of "active criminal case" to include "other sex offenses", DPS cannot determine the number of unknown samples affected. The agency assumes the costs are likely to be significant.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405
Department of Public Safety, 529 Health and Human Services
Commission

LBB Staff: WP, LBO, AI, SMi, AF

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 25, 2019

TO: Honorable Poncho Nevárez, Chair, House Committee on Homeland Security & Public Safety

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB8** by Neave (relating to the criminal statute of limitations for certain sexual offenses and the collection, analysis, and preservation of evidence of sexual assault and other sex offenses.), **Committee Report 1st House, Substituted**

<p>The fiscal implications of the bill cannot be determined at this time, but are likely to have a significant negative impact to the General Revenue Fund.</p>
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The bill requires a publicly accredited crime lab to complete analysis of the evidence of a sexual assault, or other sex offense, within 90 days of receipt of the evidence. The bill expands the definition of "active criminal case" to include "other sex offenses," and sets requirements for victim notification before the destruction of evidence. It also requires a completed database comparison of DNA profiles within 30 days of analysis, and requires Department of Public Safety (DPS) to apply for applicable available federal grant funds for this purpose.

The bill requires public accredited crime laboratories to submit a quarterly report on the number of collection kits that has not been submitted for analysis by law enforcement agencies.

Due to the expanded definition of "active criminal case" to include "other sex offenses", DPS cannot determine the number of unknown samples affected. The agency assumes the costs are likely to be significant.

The bill requires the contents of certain sexual assault exam kits to be retained for 40 years, or until the statute of limitations expires, whichever period is longer. It is assumed that the provisions of the bill relating to the statute of limitations for certain sexual offenses and the required report could be absorbed using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405
Department of Public Safety

LBB Staff: WP, LBO, AI, SMi, AF

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 5, 2019

TO: Honorable Poncho Nevárez, Chair, House Committee on Homeland Security & Public Safety

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB8 by Neave (Relating to the statute of limitations for certain sexual offenses and the collection, analysis, and preservation of evidence of sexual assault and other sex offenses.), **As Introduced**

The fiscal implications of the bill cannot be determined at this time, but are likely to have a significant negative impact to the General Revenue Fund.

The bill requires a publicly accredited crime lab to complete analysis of the evidence of a sexual assault, or other sex offense, within 90 days of receipt of the evidence if sufficient resources and personnel are available. The bill expands the definition of "active criminal case" to "sexual assault and other sex offenses". It also requires a completed database comparison of DNA profiles within 30 days of analysis, and requires the Department of Public Safety (DPS) to apply for applicable available federal grant funds for this purpose.

Due to the expanded definition of "active criminal case" to include "other sex offenses", DPS cannot determine the number of unknown samples affected. The agency assumes the costs are likely to be significant.

The bill requires the contents of certain sexual assault exam kits to be retained for 50 years, or until the statute of limitations expires, whichever period is longer. It is assumed that the provisions of the bill relating to the statute of limitations for certain sexual offenses and the required report could be absorbed using existing resources.

Local Government Impact

According to Cameron County, the bill would have a fiscal impact of between \$225,000 and \$285,000. The cost would include: hiring additional staff, operational costs, and updated equipment and data systems.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405
Department of Public Safety

LBB Staff: WP, LBO, AI, SMi, AF, DA

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

86TH LEGISLATIVE REGULAR SESSION

May 21, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB8 by Neave (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.), **As Passed 2nd House**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Code of Criminal Procedure to extend the statute of limitations for sexual assault under certain circumstances.

Extending the statute of limitations is expected to result in additional demands upon the correctional resources of the counties or of the state due to an expected increase in the number of individuals prosecuted, sentenced to a term of supervision in the community or to a term of confinement within a state correctional institution, and released to parole supervision. In fiscal year 2018, 1,160 individuals were arrested, 104 were placed under felony community supervision, and 157 were admitted into state correctional institutions for the offenses subject to an extension of the statute of limitations under the provisions of the bill. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

Source Agencies:

LBB Staff: WP, JPo, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

86TH LEGISLATIVE REGULAR SESSION

May 9, 2019

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB8 by Neave (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.), **Committee Report 2nd House, Substituted**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Code of Criminal Procedure to extend the statute of limitations for sexual assault under certain circumstances.

Extending the statute of limitations is expected to result in additional demands upon the correctional resources of the counties or of the state due to an expected increase in the number of individuals prosecuted, sentenced to a term of supervision in the community or to a term of confinement within a state correctional institution, and released to parole supervision. In fiscal year 2018, 1,160 individuals were arrested, 104 were placed under felony community supervision, and 157 were admitted into state correctional institutions for the offenses subject to an extension of the statute of limitations under the provisions of the bill. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

Source Agencies:

LBB Staff: WP, JPo, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

86TH LEGISLATIVE REGULAR SESSION

May 7, 2019

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB8 by Neave (Relating to the criminal statute of limitations for certain sexual offenses and the collection, analysis, and preservation of evidence of sexual assault and other sex offenses.), **As Engrossed**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Code of Criminal Procedure to extend the statute of limitations for sexual assault under certain circumstances.

Extending the statute of limitations is expected to result in additional demands on the correctional resources of the counties or of the state due to an expected increase in the number of individuals prosecuted, sentenced to a term of supervision in the community or to a term of confinement within a state correctional institution, and released to parole supervision. In fiscal year 2018, 1,160 individuals were arrested, 104 were placed under felony community supervision, and 157 were admitted into state correctional institutions for the offenses subject to an extension of the statute of limitations under the provisions of the bill. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

Source Agencies:

LBB Staff: WP, JPo, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

86TH LEGISLATIVE REGULAR SESSION

March 25, 2019

TO: Honorable Poncho Nevárez, Chair, House Committee on Homeland Security & Public Safety

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB8 by Neave (Relating to the criminal statute of limitations for certain sexual offenses and the collection, analysis, and preservation of evidence of sexual assault and other sex offenses.), **Committee Report 1st House, Substituted**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Code of Criminal Procedure to extend the statute of limitations for sexual assault under certain circumstances.

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Source Agencies:

LBB Staff: WP, LM, JPo

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

86TH LEGISLATIVE REGULAR SESSION

March 5, 2019

TO: Honorable Poncho Nevárez, Chair, House Committee on Homeland Security & Public Safety

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB8 by Neave (Relating to the statute of limitations for certain sexual offenses and the collection, analysis, and preservation of evidence of sexual assault and other sex offenses.), **As Introduced**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Code of Criminal Procedure to extend the statute of limitations for sexual assault under certain circumstances.

Extending the statute of limitations is expected to result in additional demands on the correctional resources of the counties or of the State due to an expected increase in the number of individuals prosecuted, sentenced to a term of supervision in the community or to a term of confinement within a state correctional institution, and released to parole supervision. In fiscal year 2018, 1,160 individuals were arrested, 104 were placed under felony community supervision, and 157 were admitted into state correctional institutions for the offenses subject to an extension of the statute of limitations under the provisions of the bill. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

Source Agencies:

LBB Staff: WP, LM, JPo