

House Bill 8
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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 the victim or any other person whose identity is readily ascertained; or
(ii) probable cause exists to believe that the defendant has committed the same or a similar **sexual** offense against five or more victims;

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

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

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

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

SENATE VERSION (IE)

SECTION 1. Same as House version.

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 the victim or any other person whose identity is readily ascertained; or
(ii) probable cause exists to believe that the defendant has committed the same or a similar **sex [sexual]** offense against five or more victims;

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

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

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

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

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(H) continuous trafficking of persons under Section 20A.03, Penal Code; or
(I) compelling prostitution under Section 43.05(a)(2), Penal Code;
(2) ten years from the date of the commission of the offense:
(A) theft of any estate, real, personal or mixed, by an executor, administrator, guardian or trustee, with intent to defraud any creditor, heir, legatee, ward, distributee, beneficiary or settlor of a trust interested in such estate;
(B) theft by a public servant of government property over which he exercises control in his official capacity;
(C) forgery or the uttering, using or passing of forged instruments;
(D) injury to an elderly or disabled individual punishable as a felony of the first degree under Section 22.04, Penal Code;
(E) sexual assault, except as provided by Subdivision (1);
(F) arson;
(G) trafficking of persons under Section 20A.02(a)(1), (2), (3), or (4), Penal Code; or
(H) compelling prostitution under Section 43.05(a)(1), Penal Code;
(3) seven years from the date of the commission of the offense:
(A) misapplication of fiduciary property or property of a financial institution;
(B) securing execution of document by deception;
(C) a felony violation under Chapter 162, Tax Code;
(D) false statement to obtain property or credit under Section 32.32, Penal Code;
(E) money laundering;
(F) credit card or debit card abuse under Section 32.31, Penal Code;

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(H) continuous trafficking of persons under Section 20A.03, Penal Code; or
(I) compelling prostitution under Section 43.05(a)(2), Penal Code;
(2) ten years from the date of the commission of the offense:
(A) theft of any estate, real, personal or mixed, by an executor, administrator, guardian or trustee, with intent to defraud any creditor, heir, legatee, ward, distributee, beneficiary or settlor of a trust interested in such estate;
(B) theft by a public servant of government property over which he exercises control in his official capacity;
(C) forgery or the uttering, using or passing of forged instruments;
(D) injury to an elderly or disabled individual punishable as a felony of the first degree under Section 22.04, Penal Code;
(E) sexual assault, except as provided by Subdivision (1);
(F) arson;
(G) trafficking of persons under Section 20A.02(a)(1), (2), (3), or (4), Penal Code; or
(H) compelling prostitution under Section 43.05(a)(1), Penal Code;
(3) seven years from the date of the commission of the offense:
(A) misapplication of fiduciary property or property of a financial institution;
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(C) a felony violation under Chapter 162, Tax Code;
(D) false statement to obtain property or credit under Section 32.32, Penal Code;
(E) money laundering;
(F) credit card or debit card abuse under Section 32.31, Penal Code;

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(G) fraudulent use or possession of identifying information under Section 32.51, Penal Code;

(H) exploitation of a child, elderly individual, 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;

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(G) fraudulent use or possession of identifying information under Section 32.51, Penal Code;

(H) exploitation of a child, elderly individual, 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;

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(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

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

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(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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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(2) a written objection is not received by the entity from the victim before the 91st day after the date on which the entity notifies the victim of the planned destruction of the evidence.
(g-3) The entity shall document the entity's attempt to notify the victim under Subsection (g-2).

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

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

(A) in which:

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

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

(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.

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SECTION 5. Same as House version.

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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 6. Same as House version.

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

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

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

SECTION 7. Same as House version.

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

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

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

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

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

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

(c) If sufficient personnel and resources are available, a public accredited crime laboratory, as soon as practicable but not later than the 90th day after the date on which the laboratory received the evidence, shall complete its analysis

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

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

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

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

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

(c) If sufficient personnel and resources are available, a public accredited crime laboratory, as soon as practicable but not later than the 90th day after the date on which the laboratory received the evidence, shall complete its analysis

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of any [sexual assault] evidence of a sexual assault or other sex offense that is submitted under this chapter or other law.

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

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

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

(2) the agency to submit the evidence to an accredited crime laboratory for analysis; [✗]

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

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

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of [sexual assault] evidence of a sexual assault or other sex offense that is submitted under this chapter or other law.

(c-1) With respect to 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 under this chapter or other law that is necessary to identify the offender or offenders. [FA1]

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

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

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

(2) the agency to submit the evidence to an accredited crime laboratory for analysis; [✗]

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

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

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

Sec. 420.043. DATABASE COMPARISON REQUIRED.

(a) Not later than the 30th day after the date [On the request of any appropriate person and after] an evidence collection kit containing biological evidence has been analyzed by an accredited crime laboratory and any necessary quality assurance reviews have been performed, except as provided by Subsection (b), the department shall compare the DNA profile obtained from the biological evidence with DNA profiles maintained in:

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

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

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

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

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

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

Sec. 420.043. DATABASE COMPARISON REQUIRED.

(a) Not later than the 30th day after the date [On the request of any appropriate person and after] an evidence collection kit containing biological evidence has been analyzed by an accredited crime laboratory and any necessary quality assurance reviews have been performed, except as provided by Subsection (b), the department shall compare the DNA profile obtained from the biological evidence with DNA profiles maintained in:

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

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

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

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

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

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

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

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

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

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

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

(1) not later than December 15, 2019, submit to the department a list of the agency's active criminal cases for which an evidence collection kit collected on or before

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

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

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

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

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

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

(1) not later than December 15, 2019, submit to the department a list of the agency's active criminal cases for which an evidence collection kit collected on or before

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September 1, 2019, has not yet been submitted for laboratory analysis;

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

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

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

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

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

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

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

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

(4) if the department determines that outsourcing certain evidence collection kits is necessary for timely analyses of the kits;

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September 1, 2019, has not yet been submitted for laboratory analysis;

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

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

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

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

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

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

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

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

(4) if the department determines that outsourcing certain evidence collection kits is necessary for timely analyses of the kits;

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(A) a proposal for determining which evidence collection kits should be outsourced; and
(B) a list of laboratories the department determines are capable of completing the outsourced analyses.
(c) Not later than September 1, 2022, and to the extent that funding is available, the department shall, as provided by Sections 420.042 and 420.043, analyze or contract for the analysis of, and complete the required database comparison, or ensure that a public accredited laboratory completed the comparison, regarding all evidence collection kits submitted to the department under Subsection (a)(2).
(d) Notwithstanding Subsection (c), the department is not required to use under this section in a state fiscal year any amount of money from the state highway fund that exceeds the amount the department has historically used in a state fiscal year to fund laboratory analyses of evidence collection kits under this chapter.
(e) To supplement funding of laboratory analyses under this section, the department may solicit and receive grants, gifts, or donations of money from the federal government or private sources as described by this chapter.
(f) This section expires September 1, 2023.

No equivalent provision.

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(A) a proposal for determining which evidence collection kits should be outsourced; and
(B) a list of laboratories the department determines are capable of completing the outsourced analyses.
(c) Not later than September 1, 2022, and to the extent that funding is available, the department shall, as provided by Sections 420.042 and 420.043, analyze or contract for the analysis of, and complete the required database comparison, or ensure that a public accredited laboratory completed the comparison, regarding all evidence collection kits submitted to the department under Subsection (a)(2).
(d) Notwithstanding Subsection (c), the department is not required to use under this section in a state fiscal year any amount of money from the state highway fund that exceeds the amount the department has historically used in a state fiscal year to fund laboratory analyses of evidence collection kits under this chapter.
(e) To supplement funding of laboratory analyses under this section, the department may solicit and receive grants, gifts, or donations of money from the federal government or private sources as described by this chapter.
(f) This section expires September 1, 2023.

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

SUBCHAPTER E. STATEWIDE TELEHEALTH CENTER FOR SEXUAL ASSAULT FORENSIC MEDICAL EXAMINATION

Sec. 420.101. DEFINITIONS. In this subchapter:

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

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

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

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

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

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

(B) the use of telehealth services; and

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

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

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

Sec. 420.104. OPERATION PROTOCOLS REQUIRED.

(a) The center and the attorney general shall develop operation protocols to address compliance with applicable laws and rules governing:

(1) telehealth services;

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

(3) standards of care;

(4) maintenance of records;

(5) technology requirements;

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

(7) the operation of a telehealth center.

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

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

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

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

(3) provide consultation, guidance, or technical assistance for health care professionals using telehealth services during a forensic medical examination.

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

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

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

(2) training conducted by or through the center;

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

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(A) carrying out the nurse's duties under Section 420.103(a);
or
(B) testifying as a witness outside the nurse's county of residence;
(4) equipment and software applications for the center; and
(5) any other purpose considered appropriate by the attorney general.
Sec. 420.107. CONSULTATION REQUIRED. In implementing this subchapter, the attorney general shall consult with persons with expertise in medicine and forensic medical examinations, a statewide sexual assault coalition, a statewide organization with expertise in the operation of children's advocacy programs, and attorneys with expertise in prosecuting sexual assault offenses.
Sec. 420.108. RULES. The attorney general may adopt rules as necessary to implement this subchapter. [FA2]

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

- (a) The department shall develop a standard information form for sexual assault survivors that must include:
- (1) a detailed explanation of the forensic medical examination required to be provided by law, including a statement that photographs may be taken of the genitalia;
 - (2) information regarding treatment of sexually transmitted infections and pregnancy, including:
 - (A) generally accepted medical procedures;
 - (B) appropriate medications; and

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

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

(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.

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(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 communicated to the survivor.

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

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

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

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

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

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

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

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

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

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

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

SECTION 13. (a) Except as provided by this section, the changes in law made by this Act to Article 56.065, Code of Criminal Procedure, and Chapter 420, Government Code, apply only to sexual assault evidence and evidence of other sex offenses collected on or after the effective date of this Act. Evidence collected before the effective date of this Act is governed by the law in effect on the date the evidence was

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SECTION 11. Same as House version.

SECTION 12. Same as House version.

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collected, and the former law is continued in effect for that purpose.

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

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

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

No equivalent provision.

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SECTION 14. 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.

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

SECTION 15. Same as House version.