87R4360 AJZ-D

By:  Neave, Button, Collier, H.B. No. 2462

     González of El Paso, Meyer, et al.

A BILL TO BE ENTITLED

AN ACT

relating to a forensic medical examination occurring with respect to a sexual assault reported to a law enforcement agency.

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

SECTION 1.  Article 56A.251, Code of Criminal Procedure, is amended to conform to Section 3, Chapter 1037 (H.B. 616), Acts of the 86th Legislature, Regular Session, 2019, and is further amended to read as follows:

Art. 56A.251.  REQUEST FOR FORENSIC MEDICAL EXAMINATION. (a) If [~~Except as provided by Subsection (b), if~~] a sexual assault is reported to a law enforcement agency within 120 [~~96~~] hours after the assault, the law enforcement agency, with the consent of the victim of the reported [~~alleged~~] assault, a person authorized to act on behalf of the victim, or an employee of the Department of Family and Protective Services, shall request a forensic medical examination of the victim for use in the investigation or prosecution of the offense.

(b)  [~~A law enforcement agency may decline to request a forensic medical examination under Subsection (a) only if:~~

[~~(1)  the person reporting the sexual assault has made one or more false reports of sexual assault to any law enforcement agency; and~~

[~~(2)  there is no other evidence to corroborate the current allegations of sexual assault.~~

[~~(c)~~]  If a sexual assault is not reported within the period described by Subsection (a), on receiving the consent described by Subsection (a), [~~that subsection~~] a law enforcement agency may request a forensic medical examination of a victim of a reported [~~an alleged~~] sexual assault for use in the investigation or prosecution of the offense if:

(1)  based on the circumstances of the reported assault, the agency believes a forensic medical examination would further that investigation or prosecution; or

(2)  after a medical evaluation by a physician, sexual assault examiner, or sexual assault nurse examiner, the physician or examiner notifies the agency that a forensic medical examination should be conducted [~~as considered appropriate by the agency~~].

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

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

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

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

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

SECTION 2.  To the extent of any conflict, this Act prevails over another Act of the 87th Legislature, Regular Session, 2021, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 3.  The change in law made by this Act applies only to a sexual assault reported on or after the effective date of this Act. A sexual assault reported before the effective date of this Act is governed by the law in effect on the date the sexual assault was reported, and the former law is continued in effect for that purpose.

SECTION 4.  This Act takes effect September 1, 2021.