

By: Howard, Tinderholt, Harless, White,
et al.

H.B. No. 1172

Substitute the following for H.B. No. 1172:

By: Bowers

C.S.H.B. No. 1172

A BILL TO BE ENTITLED

AN ACT

relating to the rights of victims of sexual assault or other
prohibited sexual conduct.

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

SECTION 1. The heading to Article 15.051, Code of Criminal
Procedure, is amended to read as follows:

Art. 15.051. ~~[REQUIRING]~~ POLYGRAPH EXAMINATION OF
COMPLAINANT PROHIBITED.

SECTION 2. Article 15.051(a), Code of Criminal Procedure,
is amended to read as follows:

(a) A peace officer or an attorney representing the state
may not require, request, or take a polygraph examination of a
person who charges or seeks to charge in a complaint the commission
of an offense under Section 21.02, 21.11, 22.011, 22.021, or 25.02,
Penal Code.

SECTION 3. Article 56A.251(a), 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:

(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 alleged assault, a person authorized to
act on behalf of the victim, or an employee of the Department of

1 Family and Protective Services, shall request a forensic medical
2 examination of the victim for use in the investigation or
3 prosecution of the offense.

4 SECTION 4. The heading to Subchapter H, Chapter 56A, Code of
5 Criminal Procedure, is amended to read as follows:

6 SUBCHAPTER H. PRESENCE OF ADVOCATE OR REPRESENTATIVE DURING
7 FORENSIC MEDICAL EXAMINATION OR LAW ENFORCEMENT INTERVIEW

8 SECTION 5. Subchapter H, Chapter 56A, Code of Criminal
9 Procedure, is amended by adding Article 56A.3515 to read as
10 follows:

11 Art. 56A.3515. PRESENCE OF SEXUAL ASSAULT PROGRAM ADVOCATE
12 OR OTHER VICTIM'S REPRESENTATIVE DURING LAW ENFORCEMENT INTERVIEW.

13 (a) Before conducting an interview with a victim reporting a sexual
14 assault, other than a victim who is a minor as defined by Section
15 101.003, Family Code, the peace officer conducting the interview
16 shall offer the victim the opportunity to have an advocate from a
17 sexual assault program, as defined by Section 420.003, Government
18 Code, be present with the victim during the interview, if the
19 advocate is available at the time of the interview. The advocate
20 must have completed a sexual assault training program described by
21 Section 420.011(b), Government Code.

22 (b) If an advocate described by Subsection (a) is not
23 available at the time of the interview, the peace officer
24 conducting the interview shall offer the victim the opportunity to
25 have a crime victim liaison from the law enforcement agency or a
26 victim's assistance counselor from a state or local agency or other
27 entity be present with the victim during the interview.

1 (c) An advocate, liaison, or counselor authorized to be
2 present during an interview under this article may only provide the
3 victim reporting the sexual assault with:

4 (1) counseling and other support services; and

5 (2) information regarding the rights of crime victims
6 under Subchapter B.

7 (d) The advocate, liaison, or counselor and the sexual
8 assault program or other entity providing the advocate, liaison, or
9 counselor may not delay or otherwise impede the interview process.

10 (e) A sexual assault program providing an advocate under
11 Subsection (a) shall pay all costs associated with providing the
12 advocate. An entity providing a victim's assistance counselor
13 under Subsection (b) shall pay all costs associated with providing
14 the counselor.

15 (f) A peace officer or law enforcement agency that provides
16 an advocate, liaison, or counselor with access to a victim
17 reporting a sexual assault is not subject to civil or criminal
18 liability for providing that access.

19 SECTION 6. Article [56A.352](#), Code of Criminal Procedure, is
20 amended by amending Subsections (b) and (d) and adding Subsection
21 (b-1) to read as follows:

22 (b) If a victim alleging to have sustained injuries as the
23 victim of a sexual assault was confined in a penal institution at
24 the time of the alleged assault, the penal institution shall
25 provide, at the victim's request, a representative to be present
26 with the victim:

27 (1) at any forensic medical examination conducted for

1 the purpose of collecting and preserving evidence related to the
2 investigation or prosecution of the alleged assault; and

3 (2) during an interview conducted by a peace officer
4 and related to the investigation of the alleged assault.

5 (b-1) The representative provided by the penal institution
6 under Subsection (b) must:

7 (1) be approved by the penal institution; and

8 (2) be a:

9 (A) psychologist;

10 (B) sociologist;

11 (C) chaplain;

12 (D) social worker;

13 (E) case manager; or

14 (F) volunteer who has completed a sexual assault
15 training program described by Section 420.011(b), Government Code.

16 (d) A representative may not delay or otherwise impede:

17 (1) the screening or stabilization of an emergency
18 medical condition; or

19 (2) the interview process.

20 SECTION 7. The following provisions of the Code of Criminal
21 Procedure are repealed:

22 (1) Articles 15.051(b) and (c); and

23 (2) Article 56A.251(b).

24 SECTION 8. To the extent of any conflict, this Act prevails
25 over another Act of the 87th Legislature, Regular Session, 2021,
26 relating to nonsubstantive additions to and corrections in enacted
27 codes.

1 SECTION 9. This Act takes effect September 1, 2021.