

By: Neave, Button, Collier,
González of El Paso, Meyer, et al.

H.B. No. 2462

A BILL TO BE ENTITLED

AN ACT

relating to the reporting of a sexual assault and to the collection
and submission of evidence with respect to that offense.

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

SECTION 1. Subchapter F, Chapter 56A, Code of Criminal
Procedure, is amended by adding Article 56A.2506 to read as
follows:

Art. 56A.2506. DEFINITION. In this subchapter, "reported
sexual assault" means a sexual assault that has been reported to a
law enforcement agency.

SECTION 2. 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) If a sexual assault is not reported within the period

1 described by Subsection (a) and the victim is a minor as defined by
2 Section 101.003, Family Code, on receiving the consent described by
3 Subsection (a) or the consent described by Section 32.003 or
4 32.005, Family Code, a law enforcement agency shall request a
5 forensic medical examination of the victim for use in the
6 investigation or prosecution of the offense [~~A law enforcement~~
7 ~~agency may decline to request a forensic medical examination under~~
8 ~~Subsection (a) only if:~~

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

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

14 (c) If a sexual assault is not reported within the period
15 described by Subsection (a) and the victim is not a minor as defined
16 by Section 101.003, Family Code, on receiving the consent described
17 by Subsection (a), [~~that subsection~~] a law enforcement agency may
18 request a forensic medical examination of a victim of a reported [~~an~~
19 ~~alleged~~] sexual assault for use in the investigation or prosecution
20 of the offense if:

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

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

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

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

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

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

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

16 SECTION 3. Article 56A.303, Code of Criminal Procedure, is
17 amended to conform to Section 4, Chapter 1037 (H.B. 616), Acts of
18 the 86th Legislature, Regular Session, 2019, and is further amended
19 to read as follows:

20 Art. 56A.303. FORENSIC MEDICAL EXAMINATION. (a) In
21 accordance with Subchapter B, Chapter 420, Government Code, and
22 except as provided by Subsection (b), a health care facility shall
23 conduct a forensic medical examination of a victim of a a [~~an alleged~~]
24 sexual assault if:

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

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

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

3 (b) If a health care facility does not provide diagnosis or
4 treatment services to victims of sexual assault, the facility shall
5 refer a victim of a ~~[an alleged]~~ sexual assault who seeks a forensic
6 medical examination under Subsection (a) to a health care facility
7 that provides services to those victims.

8 (c) A victim of a ~~[an alleged]~~ sexual assault may not be
9 required to participate in the investigation or prosecution of an
10 offense as a condition of receiving a forensic medical examination
11 under this article.

12 SECTION 4. Article [56A.304](#), Code of Criminal Procedure, is
13 amended to conform to Sections 4 and 8, Chapter 1037 (H.B. 616),
14 Acts of the 86th Legislature, Regular Session, 2019, and is further
15 amended to read as follows:

16 Art. 56A.304. PAYMENT OF FEES RELATED TO EXAMINATION. (a)
17 On application to the ~~[The department shall pay the appropriate~~
18 ~~fees, as set by]~~ attorney general ~~[rule]~~, a health care facility
19 that provides ~~[for the forensic portion of]~~ a forensic medical
20 examination to a sexual assault survivor in accordance with this
21 subchapter, or the ~~[conducted under Article [56A.303](#)(a) and for the~~
22 ~~evidence collection kit if a physician,~~] sexual assault examiner
23 ~~[r]~~ or sexual assault nurse examiner who conducts that ~~[the~~
24 ~~forensic portion of the]~~ examination, as applicable, within 120
25 ~~[96]~~ hours after the ~~[alleged]~~ sexual assault occurred is entitled
26 to be reimbursed in an amount set by attorney general rule for:

27 (1) the reasonable costs of the forensic portion of

1 that examination; and

2 (2) the evidence collection kit.

3 (b) The application under Subsection (a) must be in the form
4 and manner prescribed by the attorney general and must include:

5 (1) certification that the examination was conducted
6 in accordance with the requirements of Article 56A.303(a); and

7 (2) a complete and itemized bill of the reasonable
8 costs of the forensic portion of the examination [~~attorney general~~
9 ~~shall reimburse the department for fees paid under Subsection (a)].~~

10 (c) A health care facility or a sexual assault examiner or
11 sexual assault nurse examiner, as applicable, who applies for
12 reimbursement under Subsection (a) shall accept reimbursement from
13 the attorney general as payment for the costs unless:

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

16 (A) requests, in writing, additional
17 reimbursement from the attorney general; and

18 (B) provides documentation in support of the
19 additional reimbursement, as reasonably requested by the attorney
20 general; and

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

23 (d) A health care facility is not entitled to reimbursement
24 under this article unless the forensic medical examination was
25 conducted at the facility by a physician, sexual assault examiner,
26 or sexual assault nurse examiner.

27 (e) On request, the attorney general may provide training to

1 a health care facility regarding the process for applying for
2 reimbursement under this article.

3 (f) A victim of a [~~an-alleged~~] sexual assault may not be
4 required to pay for:

5 (1) the forensic portion of the forensic medical
6 examination; or

7 (2) the evidence collection kit.

8 SECTION 5. Article 56A.307, Code of Criminal Procedure, is
9 amended to read as follows:

10 Art. 56A.307. PROCEDURES FOR SUBMISSION OR COLLECTION OF
11 ADDITIONAL EVIDENCE. The department, consistent with Chapter 420,
12 Government Code, may develop procedures regarding the submission or
13 collection of additional evidence of a [~~an-alleged~~] sexual assault
14 other than through a forensic medical examination as described by
15 Article 56A.303(a).

16 SECTION 6. To the extent of any conflict, this Act prevails
17 over another Act of the 87th Legislature, Regular Session, 2021,
18 relating to nonsubstantive additions to and corrections in enacted
19 codes.

20 SECTION 7. The change in law made by this Act applies only
21 to a sexual assault reported on or after the effective date of this
22 Act. A sexual assault reported before the effective date of this
23 Act is governed by the law in effect on the date the sexual assault
24 was reported, and the former law is continued in effect for that
25 purpose.

26 SECTION 8. This Act takes effect September 1, 2021.