

AN ACT

relating to the reporting of a sexual assault, to evidence of a sexual assault or other sex offense, and to other law enforcement procedures occurring with respect to a sexual assault or other sex offense.

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

SECTION 1. Article 56A.052(a), Code of Criminal Procedure, is amended to conform to Section 2, Chapter 1037 (H.B. 616), Acts of the 86th Legislature, Regular Session, 2019, and is further amended to read as follows:

(a) If the offense is a sexual assault, a victim, guardian of a victim, or close relative of a deceased victim is entitled to the following rights within the criminal justice system:

(1) if requested, the right to a disclosure of information regarding:

(A) any evidence that was collected during the investigation of the offense, unless disclosing the information would interfere with the investigation or prosecution of the offense, in which event the victim, guardian, or relative shall be informed of the estimated date on which that information is expected to be disclosed; and

(B) the status of any analysis being performed of any evidence described by Paragraph (A);

(2) if requested, the right to be notified:

1 (A) at the time a request is submitted to a crime  
2 laboratory to process and analyze any evidence that was collected  
3 during the investigation of the offense;

4 (B) at the time of the submission of a request to  
5 compare any biological evidence collected during the investigation  
6 of the offense with DNA profiles maintained in a state or federal  
7 DNA database; and

8 (C) of the results of the comparison described by  
9 Paragraph (B), unless disclosing the results would interfere with  
10 the investigation or prosecution of the offense, in which event the  
11 victim, guardian, or relative shall be informed of the estimated  
12 date on which those results are expected to be disclosed;

13 (3) if requested, the right to counseling regarding  
14 acquired immune deficiency syndrome (AIDS) and human  
15 immunodeficiency virus (HIV) infection; and

16 (4) for the victim, the right to:

17 (A) testing for acquired immune deficiency  
18 syndrome (AIDS), human immunodeficiency virus (HIV) infection,  
19 antibodies to HIV, or infection with any other probable causative  
20 agent of AIDS; and

21 (B) a forensic medical examination to the extent  
22 provided by Subchapters F and G if, within 120 [~~96~~] hours of the  
23 offense:

24 (i) the offense is reported to a law  
25 enforcement agency; or

26 (ii) a forensic medical examination is  
27 otherwise conducted at a health care provider [~~facility~~].

1 SECTION 2. Subchapter F, Chapter 56A, Code of Criminal  
2 Procedure, is amended to conform to Section 3, Chapter 1037 (H.B.  
3 616), Acts of the 86th Legislature, Regular Session, 2019, by  
4 adding Article 56A.2505 and further amending that article to read  
5 as follows:

6 Art. 56A.2505. APPLICABILITY. This subchapter applies to  
7 health care providers described by Article 56A.302.

8 SECTION 3. Subchapter F, Chapter 56A, Code of Criminal  
9 Procedure, is amended by adding Article 56A.2506 to read as  
10 follows:

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

14 SECTION 4. Article 56A.251, Code of Criminal Procedure, is  
15 amended to conform to Section 3, Chapter 1037 (H.B. 616), Acts of  
16 the 86th Legislature, Regular Session, 2019, and is further amended  
17 to read as follows:

18 Art. 56A.251. REQUEST FOR FORENSIC MEDICAL EXAMINATION.

19 (a) If [~~Except as provided by Subsection (b), if~~] a sexual assault  
20 is reported to a law enforcement agency within 120 [~~96~~] hours after  
21 the assault, the law enforcement agency, with the consent of the  
22 victim of the reported [~~alleged~~] assault, a person authorized to  
23 act on behalf of the victim, or an employee of the Department of  
24 Family and Protective Services, shall request a forensic medical  
25 examination of the victim for use in the investigation or  
26 prosecution of the offense.

27 (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 provider 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 5. Article [56A.252](#), Code of Criminal Procedure, is  
17 amended to conform to Sections 3 and 8, Chapter 1037 (H.B. 616),  
18 Acts of the 86th Legislature, Regular Session, 2019, and is further  
19 amended to read as follows:

20        Art. 56A.252. PAYMENT OF COSTS OF EXAMINATION. (a) [A law  
21 enforcement agency that requests a forensic medical examination  
22 under Article [56A.251](#) shall pay all costs of the examination.] On  
23 application to the attorney general, a health care provider that  
24 provides a forensic medical examination to a sexual assault  
25 survivor in accordance with this subchapter, or the [law  
26 enforcement agency is entitled to be reimbursed for the reasonable  
27 costs of the examination if the examination was performed by a

1 ~~physician or by a~~ sexual assault examiner or sexual assault nurse  
2 examiner who conducts that examination, as applicable, is entitled  
3 to be reimbursed in an amount set by attorney general rule for:

4 (1) the reasonable costs of the forensic portion of  
5 that examination; and

6 (2) the evidence collection kit [~~defined by Section~~  
7 ~~420.003, Government Code~~].

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

10 (1) the documentation that the law enforcement agency  
11 requested the forensic medical examination, as required under  
12 Article 56A.251(d); and

13 (2) a complete and itemized bill of the reasonable  
14 costs of the forensic portion of the examination.

15 (c) A health care provider or a sexual assault examiner or  
16 sexual assault nurse examiner, as applicable, who applies for  
17 reimbursement under Subsection (a) shall accept reimbursement from  
18 the attorney general as payment for the costs unless:

19 (1) the health care provider or the sexual assault  
20 examiner or sexual assault nurse examiner, as applicable:

21 (A) requests, in writing, additional  
22 reimbursement from the attorney general; and

23 (B) provides documentation in support of the  
24 additional reimbursement, as reasonably requested by the attorney  
25 general; and

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

1        (d) A health care provider is not entitled to reimbursement  
2 under this article unless the forensic medical examination was  
3 conducted by a physician, sexual assault examiner, or sexual  
4 assault nurse examiner.

5        (e) On request, the attorney general may provide training to  
6 a health care provider regarding the process for applying for  
7 reimbursement under this article.

8        SECTION 6. Article 56A.302, Code of Criminal Procedure, is  
9 amended to read as follows:

10        Art. 56A.302. APPLICABILITY. This subchapter applies to  
11 the following health care providers [~~facilities~~] that provide  
12 diagnosis or treatment services to victims of sexual assault:

13            (1) a general or special hospital licensed under  
14 Chapter 241, Health and Safety Code;

15            (2) a general or special hospital owned by this state;

16            (3) an outpatient clinic; and

17            (4) a private physician's office.

18        SECTION 7. Article 56A.303, Code of Criminal Procedure, is  
19 amended to conform to Section 4, Chapter 1037 (H.B. 616), Acts of  
20 the 86th Legislature, Regular Session, 2019, and is further amended  
21 to read as follows:

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

27            (1) the victim arrives at the provider [~~facility~~]

1 within 120 [~~96~~] hours after the assault occurred;

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

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

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

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

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

19 Art. 56A.304. PAYMENT OF FEES RELATED TO EXAMINATION. (a)  
20 On application to the [~~The department shall pay the appropriate~~  
21 ~~fees, as set by~~] attorney general [~~rule~~], a health care provider  
22 that provides [~~for the forensic portion of~~] a forensic medical  
23 examination to a sexual assault survivor in accordance with this  
24 subchapter, or the [~~conducted under Article 56A.303(a) and for the~~  
25 ~~evidence collection kit if a physician,~~] sexual assault examiner  
26 [~~7~~] or sexual assault nurse examiner who conducts that [~~the~~  
27 ~~forensic portion of the~~] examination, as applicable, within 120



1 ~~[96]~~ hours after the ~~[alleged]~~ sexual assault occurred is entitled  
2 to be reimbursed in an amount set by attorney general rule for:

3 (1) the reasonable costs of the forensic portion of  
4 that examination; and

5 (2) the evidence collection kit.

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

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

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

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

17 (1) the health care provider or sexual assault  
18 examiner or sexual assault nurse examiner, as applicable:

19 (A) requests, in writing, additional  
20 reimbursement from the attorney general; and

21 (B) provides documentation in support of the  
22 additional reimbursement, as reasonably requested by the attorney  
23 general; and

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

26 (d) A health care provider is not entitled to reimbursement  
27 under this article unless the forensic medical examination was

1 conducted at the provider by a physician, sexual assault examiner,  
2 or sexual assault nurse examiner.

3 (e) On request, the attorney general may provide training to  
4 a health care provider regarding the process for applying for  
5 reimbursement under this article.

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

8 (1) the forensic portion of the forensic medical  
9 examination; or

10 (2) the evidence collection kit.

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

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

19 SECTION 10. Article 56B.453(d), Code of Criminal Procedure,  
20 is amended to conform to Section 5, Chapter 1037 (H.B. 616), Acts of  
21 the 86th Legislature, Regular Session, 2019, and is further amended  
22 to read as follows:

23 (d) The attorney general may use the fund to:

24 (1) reimburse a health care provider or a sexual  
25 assault examiner or sexual assault nurse examiner for certain costs  
26 of a forensic medical examination that are incurred by the provider  
27 or the examiner ~~[law enforcement agency for the reasonable costs of~~

1 ~~a forensic medical examination that are incurred by the agency]~~  
2 under Subchapter F or G, Chapter 56A, as provided by those  
3 subchapters; and

4 (2) make a payment to or on behalf of an individual for  
5 the reasonable costs incurred for medical care provided under  
6 Subchapter F or G, Chapter 56A, in accordance with Section 323.004,  
7 Health and Safety Code.

8 SECTION 11. Section 420.003(1-a), Government Code, is  
9 amended to read as follows:

10 (1-a) "Active criminal case" means a case:

11 (A) in which:

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

14 (ii) physical evidence of the offense has  
15 been submitted to the agency or an accredited crime laboratory  
16 under this chapter for analysis; and

17 (iii) the agency documents that an offense  
18 has been committed and reported; and

19 (B) for which:

20 (i) the statute of limitations has not run  
21 with respect to the prosecution of the offense; or

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

25 SECTION 12. Sections 420.034(a) and (c), Government Code,  
26 are amended to read as follows:

27 (a) For purposes of this section, "evidence" means evidence

1 collected during the investigation of a [~~an alleged~~] sexual assault  
2 or other sex offense, including:

3 (1) evidence from an evidence collection kit used to  
4 collect and preserve evidence of a sexual assault or other sex  
5 offense; and

6 (2) other biological evidence of a sexual assault or  
7 other sex offense.

8 (c) The tracking system must:

9 (1) include the evidence collection kit and any other  
10 items collected during the forensic medical examination in relation  
11 to a sexual assault or other sex offense and submitted for a  
12 laboratory analysis that is necessary to identify the offender or  
13 offenders, regardless of whether the evidence is collected in  
14 relation to an individual who is alive or deceased;

15 (2) track the location and status of each item of  
16 evidence through the criminal justice process, including the  
17 initial collection of the item of evidence in a forensic medical  
18 examination, receipt and storage of the item of evidence at a law  
19 enforcement agency, receipt and analysis of the item of evidence at  
20 an accredited crime laboratory, and storage and destruction of the  
21 item of evidence after the item is analyzed;

22 (3) [~~(2)~~] allow a facility or entity performing a  
23 forensic medical examination of a survivor, law enforcement agency,  
24 accredited crime laboratory, prosecutor, or other entity providing  
25 a chain of custody for an item of evidence to update and track the  
26 status and location of the item; and

27 (4) [~~(3)~~] allow a survivor to anonymously track or

1 receive updates regarding the status and location of each item of  
2 evidence collected in relation to the offense.

3 SECTION 13. Section 420.045, Government Code, is  
4 transferred to Section 420.034, Government Code, redesignated as  
5 Subsection (h), Section 420.034, Government Code, and amended to  
6 read as follows:

7 (h) Not later than December 1 of each year, the department  
8 ~~[Sec. 420.045. REPORT OF UNANALYZED EVIDENCE OF SEXUAL ASSAULT OR~~  
9 ~~OTHER SEX OFFENSE. Each law enforcement agency and public~~  
10 ~~accredited crime laboratory]~~ shall submit a ~~[quarterly]~~ report to  
11 the governor, lieutenant governor, speaker of the house of  
12 representatives, and members of the legislature ~~[department]~~  
13 identifying the number of evidence collection kits that have ~~[the~~  
14 ~~law enforcement agency has]~~ not yet been submitted for laboratory  
15 analysis or for which the ~~[crime]~~ laboratory analysis has not yet  
16 been completed ~~[an analysis]~~, as applicable. The annual report must  
17 be titled "Statewide Electronic Tracking System Report" and must be  
18 posted on the department's publicly accessible Internet website.

19 SECTION 14. Section 420.035(a), Government Code, as added  
20 by Chapter 408 (H.B. 8), Acts of the 86th Legislature, Regular  
21 Session, 2019, is amended to read as follows:

22 (a) If a health care facility or other entity that performs  
23 a medical examination to collect evidence of a sexual assault or  
24 other sex offense receives signed, written consent to release the  
25 evidence as provided by Section 420.0735, the facility or entity  
26 shall:

27 (1) promptly notify any law enforcement agency

1 investigating the [~~alleged~~] offense; and  
2 (2) not later than two business days after the date the  
3 examination is performed, enter the identification number of the  
4 evidence collection kit into the statewide electronic tracking  
5 system under Section 420.034.

6 SECTION 15. Section 420.042, Government Code, is amended by  
7 adding Subsection (g) to read as follows:

8 (g) A law enforcement agency that fails to submit evidence  
9 of a sexual assault or other sex offense to a public accredited  
10 crime laboratory within the period required by this section shall  
11 provide to the department written documentation of the failure,  
12 including a detailed explanation for the failure. The agency shall  
13 submit the documentation required by this subsection on or before  
14 the 30th day after the date on which the agency discovers that the  
15 evidence was not submitted within the period required by this  
16 section.

17 SECTION 16. Section 420.046, Government Code, is amended to  
18 read as follows:

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

23 SECTION 17. Section 420.042(b), Government Code, is  
24 repealed.

25 SECTION 18. To the extent of any conflict, this Act prevails  
26 over another Act of the 87th Legislature, Regular Session, 2021,  
27 relating to nonsubstantive additions to and corrections in enacted

1 codes.

2 SECTION 19. The changes in law made by this Act to Chapters  
3 56A and 56B, Code of Criminal Procedure, apply only to a sexual  
4 assault reported on or after the effective date of this Act. A  
5 sexual assault reported before the effective date of this Act is  
6 governed by the law in effect on the date the sexual assault was  
7 reported, and the former law is continued in effect for that  
8 purpose.

9 SECTION 20. The changes in law made by this Act to Section  
10 420.034(c), Government Code, and Section 420.035(a), Government  
11 Code, as added by Chapter 408 (H.B. 8), Acts of the 86th  
12 Legislature, Regular Session, 2019, apply only to sexual assault  
13 evidence and evidence of other sex offenses collected on or after  
14 the effective date of this Act. Evidence collected before the  
15 effective date of this Act is governed by the law in effect on the  
16 date the evidence was collected, and the former law is continued in  
17 effect for that purpose.

18 SECTION 21. Section 420.042(g), Government Code, as added  
19 by this Act, applies to evidence of a sexual assault or other sex  
20 offense in possession of a law enforcement agency on or after the  
21 effective date of this Act.

22 SECTION 22. This Act takes effect September 1, 2021.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2462 was passed by the House on April 7, 2021, by the following vote: Yeas 146, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2462 on May 28, 2021, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2462 on May 30, 2021, by the following vote: Yeas 140, Nays 0, 2 present, not voting.

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Chief Clerk of the House



H.B. No. 2462

I certify that H.B. No. 2462 was passed by the Senate, with amendments, on May 26, 2021, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2462 on May 30, 2021, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor