

By: Neave

H.B. No. 2462

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.~~

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

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

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

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

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

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

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

27 (2) maintain the documentation of the agency's

1 decision in accordance with the agency's record retention policies.

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

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

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