

By: A. Johnson of Harris

H.B. No. 3917

A BILL TO BE ENTITLED

AN ACT

relating to the rights of victims of sexual assault.

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

SECTION 1. Chapter 38, Code of Criminal Procedure, is amended by adding 38.435 to read as follows:

Art. 38.435. PROHIBITED USE OF EVIDENCE FROM SEXUAL ASSAULT EXAMINATION. Evidence collected during a forensic medical examination conducted under Subchapter F or G, Chapter 56A, may not be used to investigate or prosecute a misdemeanor offense, or an offense under Subchapter D, Chapter 481, Health and Safety Code, alleged to have been committed by the victim from whom the evidence was collected.

SECTION 2. Section 323.004(b), Health and Safety Code, is amended to read as follows:

(b) A health care facility providing care to a sexual assault survivor shall provide the survivor with:

(1) subject to Subsection (b-1), a forensic medical examination in accordance with Subchapter B, Chapter 420, Government Code, if the examination has been requested by a law enforcement agency under Subchapter F, Chapter 56A, Code of Criminal Procedure, or is conducted under Subchapter G, Chapter 56A, Code of Criminal Procedure;

(2) a private area, if available, to wait or speak with the appropriate medical, legal, or sexual assault crisis center

1 staff or volunteer until a physician, nurse, or physician assistant  
2 is able to treat the survivor;

3 (3) access to a sexual assault program advocate, if  
4 available, as provided by Subchapter H, Chapter 56A, Code of  
5 Criminal Procedure;

6 (4) the information form required by Section 323.005;

7 (5) a private treatment room, if available;

8 (6) if indicated by the history of contact, access to  
9 appropriate prophylaxis for exposure to sexually transmitted  
10 infections; ~~and~~

11 (7) the name and telephone number of the nearest  
12 sexual assault crisis center; and

13 (8) if the health care facility has shower facilities,  
14 access to a shower at no cost to the survivor after the examination  
15 described by Subdivision (1).

16 SECTION 3. Section 323.005(a), Health and Safety Code, as  
17 amended by Chapters 408 (H.B. 8), 469 (H.B. 4173), and 1037 (H.B.  
18 616), Acts of the 86th Legislature, Regular Session, 2019, is  
19 reenacted, amended to conform to Chapter 469 (H.B. 4173), Acts of  
20 the 86th Legislature, Regular Session, 2019, and further amended to  
21 read as follows:

22 (a) The department shall develop a standard information  
23 form for sexual assault survivors that must include:

24 (1) a detailed explanation of the forensic medical  
25 examination required to be provided by law, including a statement  
26 that photographs may be taken of the genitalia;

27 (2) information regarding treatment of sexually

1 transmitted infections and pregnancy, including:

2 (A) generally accepted medical procedures;

3 (B) appropriate medications; and

4 (C) any contraindications of the medications  
5 prescribed for treating sexually transmitted infections and  
6 preventing pregnancy;

7 (3) information regarding drug-facilitated sexual  
8 assault, including the necessity for an immediate urine test for  
9 sexual assault survivors who may have been involuntarily drugged;

10 (4) information regarding crime victims compensation,  
11 including:

12 (A) a statement that public agencies are  
13 responsible for paying for the forensic portion of an examination  
14 conducted under Subchapter F or G, Chapter 56A [~~Article 56.06 or~~  
15 ~~56.065~~], Code of Criminal Procedure, and for the evidence  
16 collection kit used in connection with the examination and that the  
17 health care facility or provider, as applicable, is responsible for  
18 seeking reimbursement for those costs; and

19 (B) information regarding the reimbursement of  
20 the survivor for the medical portion of the examination;

21 (5) an explanation that consent for the forensic  
22 medical examination may be withdrawn at any time during the  
23 examination;

24 (6) the name and telephone number of sexual assault  
25 crisis centers statewide; [~~and~~]

26 (7) information regarding postexposure prophylaxis  
27 for HIV infection;

1           (8) information regarding the period for which  
2 biological evidence collected from the forensic medical  
3 examination will be retained and preserved under Article 38.43,  
4 Code of Criminal Procedure; and

5           (9) a statement that the survivor has the right to  
6 access a shower for free after the forensic medical examination or  
7 after the survivor declines the examination, as applicable, if  
8 shower facilities are available at the health care facility.

9           SECTION 4. Article 38.435, Code of Criminal Procedure, and  
10 Section 323.004(b)(8), Health and Safety Code, as added by this  
11 Act, apply to a forensic medical examination that occurs on or after  
12 the effective date of this Act. A forensic medical examination that  
13 occurs before that date is governed by the law in effect on the date  
14 the examination occurred, and the former law is continued in effect  
15 for that purpose.

16           SECTION 5. 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 6. This Act takes effect September 1, 2021.