

SENATE AMENDMENTS

2nd Printing

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

H.B. No. 2462

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

11 SECTION 2. Article 56A.251, Code of Criminal Procedure, is
12 amended to conform to Section 3, Chapter 1037 (H.B. 616), Acts of
13 the 86th Legislature, Regular Session, 2019, and is further amended
14 to read as follows:

15 Art. 56A.251. REQUEST FOR FORENSIC MEDICAL EXAMINATION.
16 (a) If [~~Except as provided by Subsection (b), if~~] a sexual assault
17 is reported to a law enforcement agency within 120 [~~96~~] hours after
18 the assault, the law enforcement agency, with the consent of the
19 victim of the reported [~~alleged~~] assault, a person authorized to
20 act on behalf of the victim, or an employee of the Department of
21 Family and Protective Services, shall request a forensic medical
22 examination of the victim for use in the investigation or
23 prosecution of the offense.

24 (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 [~~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 ~~[7]~~ 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.

ADOPTED

MAY 26 2021

Lacey Spaw
Secretary of the Senate

By: Angela Paxton

H.B. No. 2462

Substitute the following for H.B. No. 2462 :

By: John Whitman

C.S.H.B. No. 2462

A BILL TO BE ENTITLED

1

AN ACT

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

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

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

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

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

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

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

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

23 (A) at the time a request is submitted to a crime
24 laboratory to process and analyze any evidence that was collected

1 during the investigation of the offense;

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

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

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

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

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

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

22 (i) the offense is reported to a law
23 enforcement agency; or

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

26 SECTION 2. Subchapter F, Chapter 56A, Code of Criminal
27 Procedure, is amended to conform to Section 3, Chapter 1037 (H.B.

1 616), Acts of the 86th Legislature, Regular Session, 2019, by
2 adding Article 56A.2505 and further amending that article to read
3 as follows:

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

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

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

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

16 Art. 56A.251. REQUEST FOR FORENSIC MEDICAL EXAMINATION.
17 (a) If [~~Except as provided by Subsection (b), if~~] a sexual assault
18 is reported to a law enforcement agency within 120 [~~96~~] hours after
19 the assault, the law enforcement agency, with the consent of the
20 victim of the reported [~~alleged~~] assault, a person authorized to
21 act on behalf of the victim, or an employee of the Department of
22 Family and Protective Services, shall request a forensic medical
23 examination of the victim for use in the investigation or
24 prosecution of the offense.

25 (b) If a sexual assault is not reported within the period
26 described by Subsection (a) and the victim is a minor as defined by
27 Section 101.003, Family Code, on receiving the consent described by

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

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

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

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

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

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

26 (d) If a sexual assault is reported to a law enforcement
27 agency as provided by Subsection (a), (b), or (c), the law

1 enforcement agency shall document, in the form and manner required
2 by the attorney general, whether the agency requested a forensic
3 medical examination. The law enforcement agency shall:

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

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

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

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

14 SECTION 5. Article 56A.252, Code of Criminal Procedure, is
15 amended to conform to Sections 3 and 8, Chapter 1037 (H.B. 616),
16 Acts of the 86th Legislature, Regular Session, 2019, and is further
17 amended to read as follows:

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

1 to be reimbursed in an amount set by attorney general rule for:

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

4 (2) the evidence collection kit [~~defined by Section~~
5 ~~420.003, Government Code~~].

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

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

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 the 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 by a physician, sexual assault examiner, or sexual
2 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 SECTION 6. Article 56A.302, Code of Criminal Procedure, is
7 amended to read as follows:

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

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

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

14 (3) an outpatient clinic; and

15 (4) a private physician's office.

16 SECTION 7. 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 provider
23 [~~facility~~] shall conduct a forensic medical examination of a victim
24 of a [an-alleged] sexual assault if:

25 (1) the victim arrives at the provider [~~facility~~]
26 within 120 [~~96~~] 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 provider [~~facility~~] does not provide
4 diagnosis or treatment services to victims of sexual assault, the
5 provider [~~facility~~] shall refer a victim of a [an-alleged] sexual
6 assault who seeks a forensic medical examination under Subsection
7 (a) to a health care provider [~~facility~~] that provides services to
8 those victims.

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

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

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

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

3 (2) the evidence collection kit.

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

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

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

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

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

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

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

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

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

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

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

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

8 (2) the evidence collection kit.

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

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

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

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

22 (1) reimburse a health care provider or a sexual
23 assault examiner or sexual assault nurse examiner for certain costs
24 of a forensic medical examination that are incurred by the provider
25 or the examiner [law enforcement agency for the reasonable costs of
26 a forensic medical examination that are incurred by the agency]
27 under Subchapter F or G, Chapter 56A, as provided by those

1 subchapters; and

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

6 SECTION 11. To the extent of any conflict, this Act prevails
7 over another Act of the 87th Legislature, Regular Session, 2021,
8 relating to nonsubstantive additions to and corrections in enacted
9 codes.

10 SECTION 12. The change in law made by this Act applies only
11 to a sexual assault reported on or after the effective date of this
12 Act. A sexual assault reported before the effective date of this
13 Act is governed by the law in effect on the date the sexual assault
14 was reported, and the former law is continued in effect for that
15 purpose.

16 SECTION 13. This Act takes effect September 1, 2021.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 27, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB2462 by Neave (Relating to the reporting of a sexual assault and to the collection and submission of evidence with respect to that offense.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2462, As Passed 2nd House : an impact of \$0 through the biennium ending August 31, 2023.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2022	\$0
2023	\$0
2024	\$0
2025	\$0
2026	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from Crime Victims Comp Acct	Change in Number of State Employees from FY 2021
	469	
2022	(\$1,868,469)	2.0
2023	(\$1,974,516)	2.0
2024	(\$2,047,313)	2.0
2025	(\$2,126,523)	2.0
2026	(\$2,204,065)	2.0

Fiscal Analysis

The bill would amend the Code of Criminal Procedure as it relates to a forensic medical examination occurring with respect to a sexual assault reported to a law enforcement agency.

The bill would remove an exception and require a law enforcement agency to request, with consent, a forensic medical examination of a victim of a reported sexual assault for use in the investigation or prosecution of the offense if the sexual assault is reported to the law enforcement agency within 120 hours after the assault.

The bill would provide that if a sexual assault is not reported in the period described, the law enforcement agency could request a forensic medical examination of a victim of a reported sexual assault for use in the investigation or prosecution of the offense if the agency believes a forensic medical exam would further that investigation or prosecution; a physician or sexual assault examiner notifies the agency after a medical

evaluation that a forensic medical exam should be conducted; or the victim is a minor.

The bill would require law enforcement agencies to document, in a manner required by the attorney general, whether the agency requested a forensic medical examination of a victim of a reported sexual assault. A law enforcement agency would be required to provide this documentation to the health care facility providing care to the victim and to the victim or person who consented to the examination on behalf of the victim.

Methodology

According to the Office of the Attorney General (OAG), the bill would result in an increase in forensic medical examinations in sexual assault investigations, which would create significant fiscal implication to the Crime Victims' Compensation (CVC) Program because of that program's obligations under current law. The possible increased burden on the CVC fund would necessitate two FTEs at the Accountant II paygrade to accommodate the increased workload.

The OAG also anticipates the bill having an impact on three areas related to sexual assault examination reimbursements within the CVC Program: Sexual Assault Exam Reimbursements (SAER), Emergency Medical Care (EMC), and CVC claims.

According to the OAG, the changes proposed by the bill will result in an anticipated increase in the number of exams conducted and the subsequent SAER applications. The CVC Program processes an average of 10,781 SAER applications per year with an average \$740 payment. OAG estimates that an additional 10 percent will be received during the first year, an additional 5 percent will be received during the second year, and an additional 2 percent increase in years three to five.

The bill potentially increases the number of EMC exams that may be conducted. Victims may apply for reimbursement for the cost of medical care associated with the sexual assault exam without meeting all the CVC eligibility requirements. The average payment for EMC applications is \$1,109 per application and OAG estimates that with the 10 percent increase in SAER CVC will receive a corresponding 3 percent increase in corresponding EMC applications submitted by victims, as CVC does not receive EMC applications for every SAER submitted. This would lead to an additional 33 EMC applications during the first year, and a 2 percent increase in years two to five. OAG anticipates a 2 percent increase per year in the average payment starting in the second year.

Each year, the CVC Program receives an average 5,630 victim compensation applications per year from victims of sexual assault and other related crimes, or 52 percent of the SAER applications average. On average, 67 percent of applications received are approved and 43 percent of those on average receive a payment. The average payment for a CVC claim in fiscal year 2020 was \$5,433. OAG expects a 2 percent increase in payments in years two to five.

Technology

The OAG anticipates technology costs of \$15,040 in fiscal year 2022 and \$6,660 in each of the subsequent four fiscal years for one-time purchases and recurring services for the additional FTEs.

Local Government Impact

The Lubbock County Sheriff does not anticipate a significant fiscal impact. No significant fiscal implication to other units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 405 Department of Public Safety

LBB Staff: JMc, SD, DKN, CMA, DPE

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 20, 2021

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB2462 by Neave (Relating to the reporting of a sexual assault and to the collection and submission of evidence with respect to that offense.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2462, Committee Report 2nd House, Substituted : an impact of \$0 through the biennium ending August 31, 2023.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2022	\$0
2023	\$0
2024	\$0
2025	\$0
2026	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from Crime Victims Comp Acct 469	Change in Number of State Employees from FY 2021
2022	(\$1,868,469)	2.0
2023	(\$1,974,516)	2.0
2024	(\$2,047,313)	2.0
2025	(\$2,126,523)	2.0
2026	(\$2,204,065)	2.0

Fiscal Analysis

The bill would amend the Code of Criminal Procedure as it relates to a forensic medical examination occurring with respect to a sexual assault reported to a law enforcement agency.

The bill would remove an exception and require a law enforcement agency to request, with consent, a forensic medical examination of a victim of a reported sexual assault for use in the investigation or prosecution of the offense if the sexual assault is reported to the law enforcement agency within 120 hours after the assault.

The bill would provide that if a sexual assault is not reported in the period described, the law enforcement agency could request a forensic medical examination of a victim of a reported sexual assault for use in the investigation or prosecution of the offense if the agency believes a forensic medical exam would further that investigation or prosecution; a physician or sexual assault examiner notifies the agency after a medical

evaluation that a forensic medical exam should be conducted; or the victim is a minor.

The bill would require law enforcement agencies to document, in a manner required by the attorney general, whether the agency requested a forensic medical examination of a victim of a reported sexual assault. A law enforcement agency would be required to provide this documentation to the health care facility providing care to the victim and to the victim or person who consented to the examination on behalf of the victim.

Methodology

According to the Office of the Attorney General (OAG), the bill would result in an increase in forensic medical examinations in sexual assault investigations, which would create significant fiscal implication to the Crime Victims' Compensation (CVC) Program because of that program's obligations under current law. The possible increased burden on the CVC fund would necessitate two FTEs at the Accountant II paygrade to accommodate the increased workload.

The OAG also anticipates the bill having an impact on three areas related to sexual assault examination reimbursements within the CVC Program: Sexual Assault Exam Reimbursements (SAER), Emergency Medical Care (EMC), and CVC claims.

According to the OAG, the changes proposed by the bill will result in an anticipated increase in the number of exams conducted and the subsequent SAER applications. The CVC Program processes an average of 10,781 SAER applications per year with an average \$740 payment. OAG estimates that an additional 10 percent will be received during the first year, an additional 5 percent will be received during the second year, and an additional 2 percent increase in years three to five.

The bill potentially increases the number of EMC exams that may be conducted. Victims may apply for reimbursement for the cost of medical care associated with the sexual assault exam without meeting all the CVC eligibility requirements. The average payment for EMC applications is \$1,109 per application and OAG estimates that with the 10 percent increase in SAER CVC will receive a corresponding 3 percent increase in corresponding EMC applications submitted by victims, as CVC does not receive EMC applications for every SAER submitted. This would lead to an additional 33 EMC applications during the first year, and a 2 percent increase in years two to five. OAG anticipates a 2 percent increase per year in the average payment starting in the second year.

Each year, the CVC Program receives an average 5,630 victim compensation applications per year from victims of sexual assault and other related crimes, or 52 percent of the SAER applications average. On average, 67 percent of applications received are approved and 43 percent of those on average receive a payment. The average payment for a CVC claim in fiscal year 2020 was \$5,433. OAG expects a 2 percent increase in payments in years two to five.

Technology

The OAG anticipates technology costs of \$15,040 in fiscal year 2022 and \$6,660 in each of the subsequent four fiscal years for one-time purchases and recurring services for the additional FTEs.

Local Government Impact

The Lubbock County Sheriff does not anticipate a significant fiscal impact. No significant fiscal implication to other units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 405 Department of Public Safety

LBB Staff: JMc, DKN, CMA, DPE

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 17, 2021

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB2462 by Neave (Relating to the reporting of a sexual assault and to the collection and submission of evidence with respect to that offense.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2462, As Engrossed : an impact of \$0 through the biennium ending August 31, 2023.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2022	\$0
2023	\$0
2024	\$0
2025	\$0
2026	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from Crime Victims Comp Acct 469	Change in Number of State Employees from FY 2021
2022	(\$1,868,469)	2.0
2023	(\$1,974,516)	2.0
2024	(\$2,047,313)	2.0
2025	(\$2,126,523)	2.0
2026	(\$2,204,065)	2.0

Fiscal Analysis

The bill would amend the Code of Criminal Procedure as it relates to a forensic medical examination occurring with respect to a sexual assault reported to a law enforcement agency.

The bill would remove an exception and require a law enforcement agency to request, with consent, a forensic medical examination of a victim of a reported sexual assault for use in the investigation or prosecution of the offense if the sexual assault is reported to the law enforcement agency within 120 hours after the assault.

The bill would provide that if a sexual assault is not reported in the period described, the law enforcement agency could request a forensic medical examination of a victim of a reported sexual assault for use in the investigation or prosecution of the offense if the agency believes a forensic medical exam would further that investigation or prosecution; a physician or sexual assault examiner notifies the agency after a medical

evaluation that a forensic medical exam should be conducted; or the victim is a minor.

The bill would require law enforcement agencies to document, in a manner required by the attorney general, whether the agency requested a forensic medical examination of a victim of a reported sexual assault. A law enforcement agency would be required to provide this documentation to the health care facility providing care to the victim and to the victim or person who consented to the examination on behalf of the victim.

Methodology

According to the Office of the Attorney General (OAG), the bill would result in an increase in forensic medical examinations in sexual assault investigations, which would create significant fiscal implication to the Crime Victims' Compensation (CVC) Program because of that program's obligations under current law. The possible increased burden on the CVC fund would necessitate two FTEs at the Accountant II paygrade to accommodate the increased workload.

The OAG also anticipates the bill having an impact on three areas related to sexual assault examination reimbursements within the CVC Program: Sexual Assault Exam Reimbursements (SAER), Emergency Medical Care (EMC), and CVC claims.

According to the OAG, the changes proposed by the bill will result in an anticipated increase in the number of exams conducted and the subsequent SAER applications. The CVC Program processes an average of 10,781 SAER applications per year with an average \$740 payment. OAG estimates that an additional 10 percent will be received during the first year, an additional 5 percent will be received during the second year, and an additional 2 percent increase in years three to five.

The bill potentially increases the number of EMC exams that may be conducted. Victims may apply for reimbursement for the cost of medical care associated with the sexual assault exam without meeting all the CVC eligibility requirements. The average payment for EMC applications is \$1,109 per application and OAG estimates that with the 10 percent increase in SAER CVC will receive a corresponding 3 percent increase in corresponding EMC applications submitted by victims, as CVC does not receive EMC applications for every SAER submitted. This would lead to an additional 33 EMC applications during the first year, and a 2 percent increase in years two to five. OAG anticipates a 2 percent increase per year in the average payment starting in the second year.

Each year, the CVC Program receives an average 5,630 victim compensation applications per year from victims of sexual assault and other related crimes, or 52 percent of the SAER applications average. On average, 67 percent of applications received are approved and 43 percent of those on average receive a payment. The average payment for a CVC claim in fiscal year 2020 was \$5,433. OAG expects a 2 percent increase in payments in years two to five.

Technology

The OAG anticipates technology costs of \$15,040 in fiscal year 2022 and \$6,660 in each of the subsequent four fiscal years for one-time purchases and recurring services for the additional FTEs.

Local Government Impact

The Lubbock County Sheriff does not anticipate a significant fiscal impact. No significant fiscal implication to other units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 405 Department of Public Safety

LBB Staff: JMc, DKN, CMA, DPE

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 25, 2021

TO: Honorable James White, Chair, House Committee on Homeland Security & Public Safety

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB2462 by Neave (Relating to a forensic medical examination occurring with respect to a sexual assault reported to a law enforcement agency.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2462, As Introduced : an impact of \$0 through the biennium ending August 31, 2023.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2022	\$0
2023	\$0
2024	\$0
2025	\$0
2026	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from Crime Victims Comp Acct 469	Change in Number of State Employees from FY 2021
2022	(\$1,859,482)	2.0
2023	(\$1,973,872)	2.0
2024	(\$2,046,636)	2.0
2025	(\$2,125,847)	2.0
2026	(\$2,203,369)	2.0

Fiscal Analysis

The bill would amend the Code of Criminal Procedure to require a law enforcement agency to request, with the victim's consent, a forensic medical examination of the victim of a sexual assault if the report is made within 120 hours of the assault.

The bill would authorize a law enforcement agency to request a forensic medical examination of a victim of sexual assault, even if the 120 hour reporting timeframe is not met, if the agency believes the examination would further the investigation or prosecution or the physician or examiner notifies the agency that the examination should be conducted.

The bill would require a law enforcement agency to which a sexual assault is reported to document, in the form and manner required by the attorney general, whether the agency requested a forensic medical examination; to

provide the documentation of the agency's decision regarding a request for a forensic medical examination to certain parties; and to maintain the documentation of the agency's decision in accordance with the agency's record retention policies.

Methodology

According to the Office of the Attorney General (OAG), the bill would result in an increase in forensic medical examinations in sexual assault investigations, which would create significant fiscal implication to the Crime Victims' Compensation (CVC) Program because of that program's obligations under current law. The possible increased burden on the CVC fund would necessitate two FTEs at the Accountant II paygrade to accommodate the increased workload.

The OAG also anticipates the bill having an impact on three areas related to sexual assault examination reimbursements within the CVC Program: Sexual Assault Exam Reimbursements (SAER), Emergency Medical Care (EMC), and CVC claims.

According to the OAG, the changes proposed by the bill will result in an anticipated increase in the number of exams conducted and the subsequent SAER applications. The CVC Program processes an average of 10,781 SAER applications per year with an average \$740 payment. OAG estimates that an additional 10 percent will be received during the first year, an additional 5 percent will be received during the second year, and an additional 2 percent increase in years three to five.

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Technology

The OAG anticipates technology costs of \$15,040 in fiscal year 2022 and \$6,660 in each of the subsequent four fiscal years for one-time purchases and recurring services for the additional FTEs.

Local Government Impact

The Lubbock County Sheriff does not anticipate a significant fiscal impact. No significant fiscal implication to other units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 405 Department of Public Safety

LBB Staff: JMc, DKN, CMA, DPE

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT
87TH LEGISLATIVE REGULAR SESSION

March 25, 2021

TO: Honorable James White, Chair, House Committee on Homeland Security & Public Safety

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB2462 by Neave (Relating to a forensic medical examination occurring with respect to a sexual assault reported to a law enforcement agency.), **As Introduced**

The provisions of the bill addressed by this analysis would amend the Code of Criminal Procedure as it relates to forensic medical examinations occurring with respect to sexual assaults reported to law enforcement agencies. Under the provisions of the bill, the requirements for a forensic medical examination with respect to a sexual assault reported to a law enforcement agency would be revised.

This analysis assumes implementing the provisions of the bill would not result in a significant impact on the demand for state correctional resources. The bill does not expressly create a felony offense, increase the punishment for an existing misdemeanor to that of a felony, increase the punishment for an existing felony offense or category of felony-level offenses, or change the eligibility of a person for felony community supervision, parole, or mandatory supervision.

Source

Agencies:

LBB Staff: JMc, DKN, LM, MP