

House Bill 1172
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. The heading to Article 15.051, Code of Criminal Procedure, is amended to read as follows:

Art. 15.051. ~~[REQUIRING]~~ POLYGRAPH EXAMINATION OF COMPLAINANT PROHIBITED.

SECTION 2. Article 15.051(a), Code of Criminal Procedure, is amended to read as follows:

(a) A peace officer or an attorney representing the state may not require, request, or take a polygraph examination of a person who charges or seeks to charge in a complaint the commission of an offense under Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code.

SECTION 3. Article 56A.251(a), 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:

(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 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.

SECTION 4. The heading to Subchapter H, Chapter 56A, Code of Criminal Procedure, is amended to read as follows:
SUBCHAPTER H. PRESENCE OF ADVOCATE OR

SENATE VERSION (CS)

SECTION 1. Same as House version.

SECTION 2. Same as House version.

SECTION 3. Same as House version.

SECTION 4. Same as House version.

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REPRESENTATIVE DURING FORENSIC MEDICAL
EXAMINATION OR LAW ENFORCEMENT INTERVIEW

SECTION 5. Subchapter H, Chapter 56A, Code of Criminal Procedure, is amended by adding Article 56A.3515 to read as follows:

Art. 56A.3515. PRESENCE OF SEXUAL ASSAULT PROGRAM ADVOCATE OR OTHER VICTIM'S REPRESENTATIVE DURING LAW ENFORCEMENT INTERVIEW. (a) Before conducting an investigative interview with a victim reporting a sexual assault, other than a victim who is a minor as defined by Section 101.003, Family Code, the peace officer conducting the interview shall offer the victim the opportunity to have an advocate from a sexual assault program, as defined by Section 420.003, Government Code, be present with the victim during the interview, if the advocate is available at the time of the interview. The advocate must have completed a sexual assault training program described by Section 420.011(b), Government Code. (b) If an advocate described by Subsection (a) is not available at the time of the interview, the peace officer conducting the interview shall offer the victim the opportunity to have a crime victim liaison from the law enforcement agency, a peace officer who has completed a sexual assault training program described by Section 420.011(b), Government Code, or a victim's assistance counselor from a state or local agency or other entity be present with the victim during the interview.

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SECTION 5. Subchapter H, Chapter 56A, Code of Criminal Procedure, is amended by adding Article 56A.3515 to read as follows:

Art. 56A.3515. PRESENCE OF SEXUAL ASSAULT PROGRAM ADVOCATE OR OTHER VICTIM'S REPRESENTATIVE DURING LAW ENFORCEMENT INTERVIEW. (a) Before conducting an investigative interview with a victim reporting a sexual assault, other than a victim who is a minor as defined by Section 101.003, Family Code, the peace officer conducting the interview shall offer the victim the opportunity to have an advocate from a sexual assault program, as defined by Section 420.003, Government Code, be present with the victim during the interview, if the advocate is available at the time of the interview. The advocate must have completed a sexual assault training program described by Section 420.011(b), Government Code. (b) If an advocate described by Subsection (a) is not available at the time of the interview, the peace officer conducting the interview shall offer the victim the opportunity to have a crime victim liaison from the law enforcement agency, a peace officer who has completed a sexual assault training program described by Section 420.011(b), Government Code, or a victim's assistance counselor from a state or local agency or other entity be present with the victim during the interview. (b-1) The peace officer conducting an investigative interview described by Subsection (a) shall make a good faith effort to comply with Subsections (a) and (b), except that the officer's compliance with those subsections may not unreasonably

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(c) An advocate, liaison, officer, or counselor authorized to be present during an interview under this article may only provide the victim reporting the sexual assault with:

- (1) counseling and other support services; and
- (2) information regarding the rights of crime victims under Subchapter B.

(d) The advocate, liaison, officer, or counselor and the sexual assault program or other entity providing the advocate, liaison, officer, or counselor may not delay or otherwise impede the interview process.

(e) A sexual assault program providing an advocate under Subsection (a) shall pay all costs associated with providing the advocate. An entity providing a victim's assistance counselor under Subsection (b) shall pay all costs associated with providing the counselor.

(f) A peace officer or law enforcement agency that provides an advocate, liaison, officer, or counselor with access to a victim reporting a sexual assault is not subject to civil or criminal liability for providing that access.

SECTION 6. Article 56A.352, Code of Criminal Procedure, is amended by amending Subsections (b) and (d) and adding Subsection (b-1) to read as follows:

(b) If a victim alleging to have sustained injuries as the victim of a sexual assault was confined in a penal institution at the time of the alleged assault, the penal institution shall provide, at the victim's request, a representative to be present with the victim;

- (1) at any forensic medical examination conducted for the purpose of collecting and preserving evidence related to the

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delay or otherwise impede the interview process.

(c) An advocate, liaison, officer, or counselor authorized to be present during an interview under this article may only provide the victim reporting the sexual assault with:

- (1) counseling and other support services; and
- (2) information regarding the rights of crime victims under Subchapter B.

(d) The advocate, liaison, officer, or counselor and the sexual assault program or other entity providing the advocate, liaison, officer, or counselor may not delay or otherwise impede the interview process.

(e) A sexual assault program providing an advocate under Subsection (a) shall pay all costs associated with providing the advocate. An entity providing a victim's assistance counselor under Subsection (b) shall pay all costs associated with providing the counselor.

(f) A peace officer or law enforcement agency that provides an advocate, liaison, officer, or counselor with access to a victim reporting a sexual assault is not subject to civil or criminal liability for providing that access.

SECTION 6. Same as House version.

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investigation or prosecution of the alleged assault; and
(2) during an investigative interview conducted by a peace officer in relation to the investigation of the alleged assault.
(b-1) The representative provided by the penal institution under Subsection (b) must:
(1) be approved by the penal institution; and
(2) be a:
(A) psychologist;
(B) sociologist;
(C) chaplain;
(D) social worker;
(E) case manager; or
(F) volunteer who has completed a sexual assault training program described by Section 420.011(b), Government Code.
(d) A representative may not delay or otherwise impede:
(1) the screening or stabilization of an emergency medical condition; or
(2) the interview process.

SECTION 7. The following provisions of the Code of Criminal Procedure are repealed:
(1) Articles 15.051(b) and (c); and
(2) Article 56A.251(b).

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

SECTION 7. Same as House version.

SECTION 8. Same as House version.

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SECTION 9. This Act takes effect September 1, 2021.

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SECTION 9. Same as House version.

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