

**House Bill 2462**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SENATE VERSION (CS)

CONFERENCE

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:

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

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

(C) of the results of the comparison described by Paragraph (B), unless disclosing the results 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 those results are expected to be disclosed;

(3) if requested, the right to counseling regarding acquired immune deficiency syndrome (AIDS) and human

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immunodeficiency virus (HIV) infection; and  
(4) for the victim, the right to:  
(A) testing for acquired immune deficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS; and  
(B) a forensic medical examination to the extent provided by Subchapters F and G if, within 120 [96] hours of the offense:  
(i) the offense is reported to a law enforcement agency; or  
(ii) a forensic medical examination is otherwise conducted at a health care provider [facility].

No equivalent provision.

SECTION 2. Subchapter F, Chapter 56A, Code of Criminal Procedure, is amended to conform to Section 3, Chapter 1037 (H.B. 616), Acts of the 86th Legislature, Regular Session, 2019, by adding Article 56A.2505 and further amending that article to read as follows:  
Art. 56A.2505. APPLICABILITY. This subchapter applies to health care providers described by Article 56A.302.

SECTION 1. Subchapter F, Chapter 56A, Code of Criminal Procedure, is amended by adding Article 56A.2506 to read as follows:  
Art. 56A.2506. DEFINITION. In this subchapter, "reported sexual assault" means a sexual assault that has been reported to a law enforcement agency.

SECTION 3. Same as House version.

SECTION 2. Article 56A.251, Code of Criminal Procedure, is amended to conform to Section 3, Chapter 1037 (H.B. 616),

SECTION 4. Article 56A.251, Code of Criminal Procedure, is amended to conform to Section 3, Chapter 1037 (H.B. 616),

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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) ~~If a sexual assault is not reported within the period described by Subsection (a) and the victim is a minor as defined by Section 101.003, Family Code, on receiving the consent described by Subsection (a) or the consent described by Section 32.003 or 32.005, Family Code, a law enforcement agency shall request a forensic medical examination of the victim for use in the investigation or prosecution of the offense [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].~~

(c) If a sexual assault is not reported within the period described by Subsection (a) and the victim is not a minor as defined by Section 101.003, Family Code, on receiving the consent described by Subsection (a), [that subsection] a law enforcement agency may request a forensic medical examination of a victim of a reported [an-alleged] sexual

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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) ~~If a sexual assault is not reported within the period described by Subsection (a) and the victim is a minor as defined by Section 101.003, Family Code, on receiving the consent described by Subsection (a) or the consent described by Section 32.003 or 32.005, Family Code, a law enforcement agency shall request a forensic medical examination of the victim for use in the investigation or prosecution of the offense [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].~~

(c) If a sexual assault is not reported within the period described by Subsection (a) and the victim is not a minor as defined by Section 101.003, Family Code, on receiving the consent described by Subsection (a), [that subsection] a law enforcement agency may request a forensic medical examination of a victim of a reported [an-alleged] sexual

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assault for use in the investigation or prosecution of the offense if:

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

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

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

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

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

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

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

**No equivalent provision.**

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assault for use in the investigation or prosecution of the offense if:

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

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

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

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

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

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

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

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

Art. 56A.252. PAYMENT OF COSTS OF EXAMINATION.

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~~(a) [A law enforcement agency that requests a forensic medical examination under Article 56A.251 shall pay all costs of the examination.]~~ On application to the attorney general, a health care provider that provides a forensic medical examination to a sexual assault survivor in accordance with this subchapter, or the [law enforcement agency is entitled to be reimbursed for the reasonable costs of the examination if the examination was performed by a physician or by a] sexual assault examiner or sexual assault nurse examiner who conducts that examination, as applicable, is entitled to be reimbursed in an amount set by attorney general rule for:

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

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

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

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

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

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

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

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

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(B) provides documentation in support of the additional reimbursement, as reasonably requested by the attorney general; and  
(2) the attorney general determines that there is a reasonable justification for additional reimbursement.  
(d) A health care provider is not entitled to reimbursement under this article unless the forensic medical examination was conducted by a physician, sexual assault examiner, or sexual assault nurse examiner.  
(e) On request, the attorney general may provide training to a health care provider regarding the process for applying for reimbursement under this article.

No equivalent provision.

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

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

- (1) a general or special hospital licensed under Chapter 241, Health and Safety Code;
- (2) a general or special hospital owned by this state;
- (3) an outpatient clinic; and
- (4) a private physician's office.

SECTION 3. Article 56A.303, Code of Criminal Procedure, is amended to conform to Section 4, Chapter 1037 (H.B. 616), Acts of the 86th Legislature, Regular Session, 2019, and is further amended to read as follows:

Art. 56A.303. FORENSIC MEDICAL EXAMINATION. (a) In accordance with Subchapter B, Chapter 420, Government

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

Art. 56A.303. FORENSIC MEDICAL EXAMINATION. (a) In accordance with Subchapter B, Chapter 420, Government

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Code, and except as provided by Subsection (b), a health care facility shall conduct a forensic medical examination of a victim of a ~~an alleged~~ sexual assault if:

- (1) the victim arrives at the facility within 120 [96] hours after the assault occurred;
- (2) the victim consents to the examination; and
- (3) at the time of the examination the victim has not reported the assault to a law enforcement agency.

(b) If a health care facility does not provide diagnosis or treatment services to victims of sexual assault, the facility shall refer a victim of a ~~an alleged~~ sexual assault who seeks a forensic medical examination under Subsection (a) to a health care facility that provides services to those victims.

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

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

Art. 56A.304. PAYMENT OF FEES RELATED TO EXAMINATION. (a) On application to the [~~The department shall pay the appropriate fees, as set by~~] attorney general [~~rule~~], a health care facility that provides [~~for the forensic portion of~~] a forensic medical examination to a sexual assault survivor in accordance with this subchapter, or the [~~conducted under Article 56A.303(a) and for the evidence collection kit if a physician,~~] sexual assault examiner [5] or sexual assault

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Code, and except as provided by Subsection (b), a health care provider [facility] shall conduct a forensic medical examination of a victim of a ~~an alleged~~ sexual assault if:

- (1) the victim arrives at the provider [facility] within 120 [96] hours after the assault occurred;
- (2) the victim consents to the examination; and
- (3) at the time of the examination the victim has not reported the assault to a law enforcement agency.

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

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

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

Art. 56A.304. PAYMENT OF FEES RELATED TO EXAMINATION. (a) On application to the [~~The department shall pay the appropriate fees, as set by~~] attorney general [~~rule~~], a health care provider that provides [~~for the forensic portion of~~] a forensic medical examination to a sexual assault survivor in accordance with this subchapter, or the [~~conducted under Article 56A.303(a) and for the evidence collection kit if a physician,~~] sexual assault examiner [5] or sexual assault

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nurse examiner who conducts that [the forensic portion of the] examination, as applicable, within 120 [96] hours after the [alleged] sexual assault occurred is entitled to be reimbursed in an amount set by attorney general rule for:

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

(2) the evidence collection kit.

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

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

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

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

(1) the health care facility or sexual assault examiner or sexual assault nurse examiner, as applicable:

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

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

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

(d) A health care facility is not entitled to reimbursement under this article unless the forensic medical examination was conducted at the facility by a physician, sexual assault

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nurse examiner who conducts that [the forensic portion of the] examination, as applicable, within 120 [96] hours after the [alleged] sexual assault occurred is entitled to be reimbursed in an amount set by attorney general rule for:

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

(2) the evidence collection kit.

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

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

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

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

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

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

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

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

(d) A health care provider is not entitled to reimbursement under this article unless the forensic medical examination was conducted at the provider by a physician, sexual assault

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examiner, or sexual assault nurse examiner.

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

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

- (1) the forensic portion of the forensic medical examination;
- or
- (2) the evidence collection kit.

SECTION 5. Article 56A.307, Code of Criminal Procedure, is amended to read as follows:

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

No equivalent provision.

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examiner, or sexual assault nurse examiner.

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

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

- (1) the forensic portion of the forensic medical examination;
- or
- (2) the evidence collection kit.

SECTION 9. Same as House version.

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

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

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

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~~incurred by the agency]~~ under Subchapter F or G, Chapter 56A, as provided by those subchapters; and  
(2) make a payment to or on behalf of an individual for the reasonable costs incurred for medical care provided under Subchapter F or G, Chapter 56A, in accordance with Section 323.004, Health and Safety Code.

SECTION 6. 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 11. Same as House version.

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

SECTION 12. Same as House version.

SECTION 8. This Act takes effect September 1, 2021.

SECTION 13. Same as House version.