

AN ACT

relating to the rights of victims of sexual assault and to certain procedures and reimbursements occurring with respect to a sexual assault or other sex offense.

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

SECTION 1. Article 38.435, Code of Criminal Procedure, is amended to read as follows:

Art. 38.435. PROHIBITED USE OF EVIDENCE FROM FORENSIC MEDICAL EXAMINATION PERFORMED ON VICTIM OF SEXUAL ASSAULT. Evidence collected during a forensic medical examination conducted under Subchapter ~~[F-e]~~ 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. Article 56A.051(a), Code of Criminal Procedure, is amended to read as follows:

(a) 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) the right to receive from a law enforcement agency adequate protection from harm and threats of harm arising from cooperation with prosecution efforts;

(2) the right to have the magistrate consider the safety of the victim or the victim's family in setting the amount of

1 bail for the defendant;

2 (3) if requested, the right to be informed:

3 (A) by the attorney representing the state of
4 relevant court proceedings, including appellate proceedings, and
5 to be informed if those proceedings have been canceled or
6 rescheduled before the event; and

7 (B) by an appellate court of the court's
8 decisions, after the decisions are entered but before the decisions
9 are made public;

10 (4) when requested, the right to be informed:

11 (A) by a peace officer concerning the defendant's
12 right to bail and the procedures in criminal investigations; and

13 (B) by the office of the attorney representing
14 the state concerning the general procedures in the criminal justice
15 system, including general procedures in guilty plea negotiations
16 and arrangements, restitution, and the appeals and parole process;

17 (5) the right to provide pertinent information to a
18 community supervision and corrections department conducting a
19 presentencing investigation concerning the impact of the offense on
20 the victim and the victim's family by testimony, written statement,
21 or any other manner before any sentencing of the defendant;

22 (6) the right to receive information:

23 (A) regarding compensation to victims of crime as
24 provided by Chapter 56B, including information related to the costs
25 that may be compensated under that chapter and the amount of
26 compensation, eligibility for compensation, and procedures for
27 application for compensation under that chapter;

1 (B) for a victim of a sexual assault, regarding
2 the payment under Subchapter G for a forensic medical examination;
3 [~~under Article 56A.252 for a victim of an alleged sexual assault,~~]
4 and

5 (C) when requested, providing a [to] referral to
6 available social service agencies that may offer additional
7 assistance;

8 (7) the right to:

9 (A) be informed, on request, of parole
10 procedures;

11 (B) participate in the parole process;

12 (C) provide to the board for inclusion in the
13 defendant's file information to be considered by the board before
14 the parole of any defendant convicted of any offense subject to this
15 chapter; and

16 (D) be notified, if requested, of parole
17 proceedings concerning a defendant in the victim's case and of the
18 defendant's release;

19 (8) the right to be provided with a waiting area,
20 separate or secure from other witnesses, including the defendant
21 and relatives of the defendant, before testifying in any proceeding
22 concerning the defendant; if a separate waiting area is not
23 available, other safeguards should be taken to minimize the
24 victim's contact with the defendant and the defendant's relatives
25 and witnesses, before and during court proceedings;

26 (9) the right to the prompt return of any of the
27 victim's property that is held by a law enforcement agency or the

1 attorney representing the state as evidence when the property is no
2 longer required for that purpose;

3 (10) the right to have the attorney representing the
4 state notify the victim's employer, if requested, that the victim's
5 cooperation and testimony is necessary in a proceeding that may
6 require the victim to be absent from work for good cause;

7 (11) the right to request victim-offender mediation
8 coordinated by the victim services division of the department;

9 (12) the right to be informed of the uses of a victim
10 impact statement and the statement's purpose in the criminal
11 justice system as described by Subchapter D, to complete the victim
12 impact statement, and to have the victim impact statement
13 considered:

14 (A) by the attorney representing the state and
15 the judge before sentencing or before a plea bargain agreement is
16 accepted; and

17 (B) by the board before a defendant is released
18 on parole;

19 (13) for a victim of an assault or sexual assault who
20 is younger than 17 years of age or whose case involves family
21 violence, as defined by Section 71.004, Family Code, the right to
22 have the court consider the impact on the victim of a continuance
23 requested by the defendant; if requested by the attorney
24 representing the state or by the defendant's attorney, the court
25 shall state on the record the reason for granting or denying the
26 continuance; and

27 (14) if the offense is a capital felony, the right to:

1 (A) receive by mail from the court a written
2 explanation of defense-initiated victim outreach if the court has
3 authorized expenditures for a defense-initiated victim outreach
4 specialist;

5 (B) not be contacted by the victim outreach
6 specialist unless the victim, guardian, or relative has consented
7 to the contact by providing a written notice to the court; and

8 (C) designate a victim service provider to
9 receive all communications from a victim outreach specialist acting
10 on behalf of any person.

11 SECTION 3. Article [56A.052\(a\)](#), Code of Criminal Procedure,
12 is amended to read as follows:

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

16 (1) if requested, the right to a disclosure of
17 information regarding:

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

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

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

27 (A) at the time a request is submitted to a crime

1 laboratory to process and analyze any evidence that was collected
2 during the investigation of the offense;

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

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

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

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

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

20 (B) a forensic medical examination as ~~[to the~~
21 ~~extent]~~ provided by Subchapter ~~[Subchapters F and]~~ G ~~[if, within~~
22 ~~120 hours of the offense.~~

23 ~~[(i) the offense is reported to a law~~
24 ~~enforcement agency; or~~

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

27 SECTION 4. The heading to Subchapter G, Chapter 56A, Code of

1 Criminal Procedure, is amended to read as follows:

2 SUBCHAPTER G. FORENSIC MEDICAL EXAMINATION OF SEXUAL ASSAULT

3 VICTIM [~~NOT REPORTING ASSAULT~~]

4 SECTION 5. Article 56A.303, Code of Criminal Procedure, is
5 amended by amending Subsection (a) and adding Subsection (b-1) to
6 read as follows:

7 (a) In accordance with Subchapter B, Chapter 420,
8 Government Code, and except as provided by Subsection (b), a health
9 care provider shall conduct a forensic medical examination of:

10 (1) a victim of a sexual assault who is a minor as
11 defined by Section 101.003, Family Code, regardless of when the
12 victim arrives at the provider, if the victim, a person authorized
13 to act on behalf of the victim, or an employee of the Department of
14 Family and Protective Services consents to the examination, or if
15 consent is provided as described by Section 32.003 or 32.005,
16 Family Code; and

17 (2) a victim of a sexual assault who is not a minor,
18 if:

19 (A) [~~(1)~~] the victim arrives at the provider:

20 (i) within 120 hours after the assault
21 occurred; or

22 (ii) later than 120 hours after the assault
23 occurred, and the victim is:

24 (a) referred for a forensic medical
25 examination by a law enforcement agency under Subsection (b-1); or

26 (b) referred for a forensic medical
27 examination by a physician, sexual assault examiner, or sexual

1 assault nurse examiner who has conducted a preliminary medical
2 evaluation and determined that a forensic medical examination
3 should be conducted; and

4 (B) the victim, a person authorized to act on
5 behalf of the victim, or an employee of the Department of Family and
6 Protective Services consents to the examination

7 ~~[(2) the victim consents to the examination; and~~

8 ~~[(3) at the time of the examination the victim has not~~
9 ~~reported the assault to a law enforcement agency].~~

10 (b-1) A law enforcement agency shall refer a victim of a
11 sexual assault for a forensic medical examination, to be conducted
12 in accordance with Subsection (a), if a sexual assault is reported
13 to a law enforcement agency within 120 hours after the assault or,
14 if the victim is a minor as defined by Section 101.003, Family Code,
15 regardless of when the sexual assault is reported. A law
16 enforcement agency may make the same referral with respect to any
17 victim of a sexual assault who is not a minor and who does not report
18 the sexual assault within the 120-hour period required by this
19 subsection if the agency believes that a forensic medical
20 examination may further a sexual assault investigation or
21 prosecution.

22 SECTION 6. Articles 56A.304(a) and (b), Code of Criminal
23 Procedure, are amended to read as follows:

24 (a) On application to the attorney general and subject to
25 Article 56A.305(e), a health care provider that provides a forensic
26 medical examination to a sexual assault survivor in accordance with
27 this subchapter, or the sexual assault examiner or sexual assault

1 nurse examiner who conducts that examination in accordance with
2 this subchapter, as applicable, [~~within 120 hours after the sexual~~
3 ~~assault occurred~~] is entitled to be reimbursed in an amount set by
4 attorney general rule for:

5 (1) the reasonable costs of the forensic portion of
6 that examination; [~~and~~]

7 (2) the evidence collection kit; and

8 (3) the reasonable costs of other medical care
9 provided to the victim during the forensic medical examination in
10 accordance with Subchapters A and B, Chapter 323, Health and Safety
11 Code.

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

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

16 (2) a complete and itemized bill of the reasonable
17 costs of the forensic portion of the examination and any additional
18 medical care described by Subsection (a)(3).

19 SECTION 7. Subchapter G, Chapter 56A, Code of Criminal
20 Procedure, is amended by adding Article 56A.3045 to read as
21 follows:

22 Art. 56A.3045. PAYMENT OF COSTS RELATED TO TESTIMONY. A law
23 enforcement agency or an office of the attorney representing the
24 state may pay any costs related to the testimony of a licensed
25 health care professional in a criminal proceeding regarding the
26 results of a forensic medical examination described by Article
27 56A.303 or the manner in which the examination was performed.

1 SECTION 8. Article 56A.305, Code of Criminal Procedure, is
2 amended to read as follows:

3 Art. 56A.305. PAYMENT OF COSTS FOR CERTAIN MEDICAL
4 CARE. (a) The attorney general shall [~~may~~] make a payment to a
5 victim of a sexual assault or on behalf of a victim of a sexual
6 assault [~~an individual~~] for the reasonable costs incurred for
7 medical care that is provided to the victim as described by Article
8 56A.304(a) [~~in accordance with Sections 323.004, 323.053, and~~
9 ~~323.054, Health and Safety Code~~].

10 (b) The attorney general shall make a payment under
11 Subsection (a) in accordance with the medical fee guidelines
12 prescribed by Subtitle A, Title 5, Labor Code. A payment made under
13 Subsection (a) may not exceed \$25,000.

14 (c) Neither the attorney general nor a victim of a sexual
15 assault is liable for costs incurred for medical care that:

16 (1) exceed the medical fee guidelines described by
17 Subsection (b); or

18 (2) is not medically necessary.

19 (d) The Health and Human Services Commission may contract
20 with a third-party vendor or other entity to provide health care
21 providers access to prescription drugs for purposes of medical care
22 described by Subsection (a).

23 (e) The attorney general may deny or reduce a payment under
24 Subsection (a) to the extent that the amount otherwise proposed for
25 reimbursement is recouped from a collateral source.

26 SECTION 9. Article 56A.306, Code of Criminal Procedure, is
27 amended by amending Subsections (a), (b), and (c) and adding

1 Subsection (a-1) to read as follows:

2 (a) The department, consistent with Chapter 420, Government
3 Code, shall develop procedures for the transfer and preservation of
4 evidence collected during a forensic medical examination for a
5 sexual assault that was not reported to a law enforcement agency,
6 including procedures for:

7 (1) the transfer of the evidence [~~collected under this~~
8 ~~subchapter~~] to a crime laboratory or other suitable location
9 designated by the public safety director of the department;

10 (2) the preservation of the evidence by the entity
11 receiving the evidence; and

12 (3) the notification of the victim of the offense
13 through the statewide electronic tracking system before a planned
14 destruction of evidence under this article.

15 (a-1) The transfer and preservation of evidence collected
16 during a forensic medical examination for a reported sexual assault
17 must comply with the procedures under Sections 420.035(b) and (c)
18 and 420.042(a), Government Code.

19 (b) Subject to Subsection (c), an entity receiving evidence
20 collected during a forensic medical examination as described by
21 this subchapter [~~described by Subsection (a)~~] shall preserve the
22 evidence until the earlier of:

23 (1) the fifth anniversary of the date on which the
24 evidence was collected; or

25 (2) the date on which written consent to release the
26 evidence is obtained as provided by Section 420.0735, Government
27 Code.

1 (c) An entity receiving evidence collected during a
2 forensic medical examination as described by this subchapter
3 ~~[described by Subsection (a)]~~ may destroy the evidence on the
4 expiration of the entity's duty to preserve the evidence under
5 Subsection (b)(1) only if notice of the planned destruction is
6 entered into the statewide electronic tracking system and an [+

7 ~~[(1) the entity provides written notification to the~~
8 ~~victim of the offense, in a trauma-informed manner, of the decision~~
9 ~~to destroy the evidence that includes:~~

10 ~~[(A) detailed instructions on how the victim may~~
11 ~~make a written objection to the decision, including contact~~
12 ~~information for the entity; or~~

13 ~~[(B) a standard form for the victim to complete~~
14 ~~and return to the entity to make a written objection to the~~
15 ~~decision; and~~

16 ~~[(2) a written]~~ objection is not received by the
17 entity from the victim before the 91st day after the date on which
18 the entity entered the notice ~~[notifies the victim]~~ of the planned
19 destruction of the evidence into the tracking system.

20 SECTION 10. Article [56A.307](#), Code of Criminal Procedure, is
21 amended to read as follows:

22 Art. 56A.307. PROCEDURES FOR SUBMISSION OR COLLECTION OF
23 ADDITIONAL EVIDENCE. The department, consistent with Chapter [420](#),
24 Government Code, may develop procedures regarding the submission or
25 collection of additional evidence of a sexual assault other than
26 through a forensic medical examination as described by Article
27 [56A.303](#) [~~56A.303(a)~~].

1 SECTION 11. Article 56A.308(b), Code of Criminal Procedure,
2 is amended to read as follows:

3 (b) A communication or record is confidential for purposes
4 of Section 552.101, Government Code, if the communication or
5 record:

6 (1) contains identifying information regarding a
7 victim who receives a forensic medical examination under Article
8 56A.303 [~~56A.303(a)~~]; and

9 (2) is created by, provided to, or in the control or
10 possession of the department.

11 SECTION 12. Article 56A.401, Code of Criminal Procedure, is
12 amended to read as follows:

13 Art. 56A.401. NOTIFICATION OF RIGHTS. At the initial
14 contact or at the earliest possible time after the initial contact
15 between a victim of a reported offense and the law enforcement
16 agency having the responsibility for investigating the offense, the
17 agency shall provide the victim a written notice containing:

18 (1) information about the availability of emergency
19 and medical services, if applicable;

20 (2) information about the rights of crime victims
21 under Subchapter B;

22 (3) notice that the victim has the right to receive
23 information:

24 (A) regarding compensation to victims of crime as
25 provided by Chapter 56B, including information relating to ~~about~~

26 [~~(A)~~] the costs that may be compensated under
27 that chapter and the amount of compensation, eligibility for

1 compensation, and procedures for application for compensation
2 under that chapter;

3 (B) for a victim of a sexual assault, regarding
4 the payment under Subchapter G for a forensic medical examination
5 [~~under Article 56A.252 for a victim of an alleged sexual assault~~];
6 and

7 (C) providing a referral to available social
8 service agencies that may offer additional assistance;

9 (4) the name, address, and phone number of the law
10 enforcement agency's crime victim liaison;

11 (5) the name, address, and phone number of the victim
12 assistance coordinator of the office of the attorney representing
13 the state; and

14 (6) the following statement:

15 "You may call the law enforcement agency's telephone number
16 for the status of the case and information about victims' rights."

17 SECTION 13. Article 56A.451(a), Code of Criminal Procedure,
18 is amended to read as follows:

19 (a) Not later than the 10th day after the date that an
20 indictment or information is returned against a defendant for an
21 offense, the attorney representing the state shall give to each
22 victim of the offense a written notice containing:

23 (1) the case number and assigned court for the case;

24 (2) a brief general statement of each procedural stage
25 in the processing of a criminal case, including bail, plea
26 bargaining, parole restitution, and appeal;

27 (3) suggested steps the victim may take if the victim

1 is subjected to threats or intimidation;

2 (4) the name, address, and phone number of the local
3 victim assistance coordinator; and

4 (5) notification of:

5 (A) the rights and procedures under this chapter,
6 Chapter 56B, and Subchapter B, Chapter 58;

7 (B) the right to file a victim impact statement
8 with the office of the attorney representing the state and the
9 department;

10 (C) the right to receive information:

11 (i) regarding compensation to victims of
12 crime as provided by Chapter 56B, including information relating to
13 ~~[about~~

14 ~~[(i)]~~ the costs that may be compensated
15 under that chapter, eligibility for compensation, and procedures
16 for application for compensation under that chapter;

17 (ii) for a victim of a sexual assault,
18 regarding the payment under Subchapter G for a forensic medical
19 examination ~~[under Article 56A.252 for a victim of an alleged~~
20 ~~sexual assault]~~; and

21 (iii) providing a referral to available
22 social service agencies that may offer additional assistance; and

23 (D) the right of a victim, guardian of a victim,
24 or close relative of a deceased victim, as defined by Section
25 508.117, Government Code, to appear in person before a member of the
26 board as provided by Section 508.153, Government Code.

27 SECTION 14. Article 56B.107, Code of Criminal Procedure, is

1 amended by adding Subsection (d) to read as follows:

2 (d) For purposes of Subsection (a)(1), a victim receiving a
3 forensic medical examination constitutes sufficient evidence that
4 a victim has substantially cooperated with an investigation of a
5 sexual assault or other sex offense.

6 SECTION 15. Article 56B.453(d), Code of Criminal Procedure,
7 is amended to read as follows:

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

9 (1) reimburse a health care provider or a sexual
10 assault examiner or sexual assault nurse examiner for certain costs
11 of a forensic medical examination that are incurred by the provider
12 or the examiner under Subchapter [~~F or~~] G, Chapter 56A [~~, as provided~~
13 ~~by those subchapters~~]; and

14 (2) make a payment to or on behalf of a victim of a
15 sexual assault [~~an individual~~] for the reasonable costs incurred
16 for medical care provided under Subchapter [~~F or~~] G, Chapter 56A, as
17 described by Article 56A.305 [~~in accordance with Section 323.004,~~
18 ~~Health and Safety Code~~].

19 SECTION 16. Section 57.002(a), Family Code, is amended to
20 read as follows:

21 (a) A victim, guardian of a victim, or close relative of a
22 deceased victim is entitled to the following rights within the
23 juvenile justice system:

24 (1) the right to receive from law enforcement agencies
25 adequate protection from harm and threats of harm arising from
26 cooperation with prosecution efforts;

27 (2) the right to have the court or person appointed by

1 the court take the safety of the victim or the victim's family into
2 consideration as an element in determining whether the child should
3 be detained before the child's conduct is adjudicated;

4 (3) the right, if requested, to be informed of
5 relevant court proceedings, including appellate proceedings, and
6 to be informed in a timely manner if those court proceedings have
7 been canceled or rescheduled;

8 (4) the right to be informed, when requested, by the
9 court or a person appointed by the court concerning the procedures
10 in the juvenile justice system, including general procedures
11 relating to:

12 (A) the preliminary investigation and deferred
13 prosecution of a case; and

14 (B) the appeal of the case;

15 (5) the right to provide pertinent information to a
16 juvenile court conducting a disposition hearing concerning the
17 impact of the offense on the victim and the victim's family by
18 testimony, written statement, or any other manner before the court
19 renders its disposition;

20 (6) the right to receive information:

21 (A) regarding compensation to victims as
22 provided by Chapter 56B, Code of Criminal Procedure, including
23 information relating [~~related~~] to the costs that may be
24 compensated under that chapter and the amount of compensation,
25 eligibility for compensation, and procedures for application for
26 compensation under that chapter;

27 (B) for a victim of a sexual assault, regarding

1 the payment under Subchapter G, Chapter 56A, Code of Criminal
2 Procedure, for a forensic medical examination; [of medical expenses
3 under Subchapter F, Chapter 56A, Code of Criminal Procedure, for a
4 victim of a sexual assault,] and

5 (C) when requested, providing a [to] referral to
6 available social service agencies that may offer additional
7 assistance;

8 (7) the right to be informed, upon request, of
9 procedures for release under supervision or transfer of the person
10 to the custody of the Texas Department of Criminal Justice for
11 parole, to participate in the release or transfer for parole
12 process, to be notified, if requested, of the person's release,
13 escape, or transfer for parole proceedings concerning the person,
14 to provide to the Texas Juvenile Justice Department for inclusion
15 in the person's file information to be considered by the department
16 before the release under supervision or transfer for parole of the
17 person, and to be notified, if requested, of the person's release or
18 transfer for parole;

19 (8) the right to be provided with a waiting area,
20 separate or secure from other witnesses, including the child
21 alleged to have committed the conduct and relatives of the child,
22 before testifying in any proceeding concerning the child, or, if a
23 separate waiting area is not available, other safeguards should be
24 taken to minimize the victim's contact with the child and the
25 child's relatives and witnesses, before and during court
26 proceedings;

27 (9) the right to prompt return of any property of the

1 victim that is held by a law enforcement agency or the attorney for
2 the state as evidence when the property is no longer required for
3 that purpose;

4 (10) the right to have the attorney for the state
5 notify the employer of the victim, if requested, of the necessity of
6 the victim's cooperation and testimony in a proceeding that may
7 necessitate the absence of the victim from work for good cause;

8 (11) the right to be present at all public court
9 proceedings related to the conduct of the child as provided by
10 Section 54.08, subject to that section; and

11 (12) any other right appropriate to the victim that a
12 victim of criminal conduct has under Subchapter B, Chapter 56A,
13 Code of Criminal Procedure.

14 SECTION 17. Section 501.174, Government Code, is amended to
15 read as follows:

16 Sec. 501.174. DEPARTMENT TO ADOPT POLICY. The department
17 shall adopt a policy providing for:

18 (1) a designated administrator at each correctional
19 facility to post information throughout the facility describing how
20 an inmate may confidentially contact the ombudsperson regarding a
21 sexual assault;

22 (2) an inmate to write a confidential letter to the
23 ombudsperson regarding a sexual assault;

24 (3) employees at correctional facilities, on
25 notification of the occurrence of a sexual assault, to immediately:

26 (A) contact the ombudsperson and the office of
27 the inspector general; and

1 (B) ensure that the alleged victim is safe;

2 (4) the office of the inspector general, at the time
3 the office is notified of the sexual assault, to arrange for a
4 medical examination of the alleged victim to be conducted in
5 accordance with Subchapter G [~~F~~], Chapter 56A, Code of Criminal
6 Procedure, or, if an appropriate employee of the office of the
7 inspector general is not available at the time the office is
8 notified of the sexual assault, a qualified employee at the
9 correctional facility to conduct a medical examination of the
10 alleged victim in accordance with that subchapter;

11 (5) a grievance proceeding under Section 501.008 based
12 on an alleged sexual assault to be exempt from any deadline
13 applicable to grievances initiated under that section; and

14 (6) each correctional facility to collect statistics
15 on all alleged sexual assaults against inmates confined in the
16 facility and to report the statistics to the ombudsperson.

17 SECTION 18. Section 241.1031(a), Health and Safety Code, is
18 amended to read as follows:

19 (a) A hospital may not destroy a medical record from the
20 forensic medical examination of a sexual assault victim conducted
21 under Subchapter [~~F-or~~] G, Chapter 56A, Code of Criminal Procedure,
22 until the 20th anniversary of the date the record was created.

23 SECTION 19. Section 323.004(b), Health and Safety Code, is
24 amended to read as follows:

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

27 (1) subject to Subsection (b-1), a forensic medical

1 examination in accordance with Subchapter B, Chapter 420,
2 Government Code, and [~~if the examination has been requested by a law~~
3 ~~enforcement agency under Subchapter F, Chapter 56A, Code of~~
4 ~~Criminal Procedure, or is conducted under~~] Subchapter G, Chapter
5 56A, Code of Criminal Procedure;

6 (2) a private area, if available, to wait or speak with
7 the appropriate medical, legal, or sexual assault crisis center
8 staff or volunteer until a physician, nurse, or physician assistant
9 is able to treat the survivor;

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

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

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

15 (6) if indicated by the history of contact, access to
16 appropriate prophylaxis for exposure to sexually transmitted
17 infections;

18 (7) the name and telephone number of the nearest
19 sexual assault crisis center; and

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

23 SECTION 20. Section 323.005(a), Health and Safety Code, is
24 amended to read as follows:

25 (a) The commission shall develop a standard information
26 form for sexual assault survivors that must include:

27 (1) a detailed explanation of the forensic medical

1 examination required to be provided by law, including a statement
2 that photographs may be taken of the genitalia;

3 (2) information regarding treatment of sexually
4 transmitted infections and pregnancy, including:

5 (A) generally accepted medical procedures;

6 (B) appropriate medications; and

7 (C) any contraindications of the medications
8 prescribed for treating sexually transmitted infections and
9 preventing pregnancy;

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

13 (4) information regarding crime victims compensation
14 and regarding the payment of costs and the reimbursements available
15 for care to be provided as described by Subchapter G, Chapter 56A,
16 Code of Criminal Procedure ~~[, including:~~

17 ~~[(A) a statement that public agencies are~~
18 ~~responsible for paying for the forensic portion of an examination~~
19 ~~conducted under Subchapter F or G, Chapter 56A, Code of Criminal~~
20 ~~Procedure, and for the evidence collection kit used in connection~~
21 ~~with the examination and that the health care facility or provider,~~
22 ~~as applicable, is responsible for seeking reimbursement for those~~
23 ~~costs, and~~

24 ~~[(B) information regarding the reimbursement of~~
25 ~~the survivor for the medical portion of the examination];~~

26 (5) an explanation that consent for the forensic
27 medical examination may be withdrawn at any time during the

1 examination;

2 (6) the name and telephone number of sexual assault
3 crisis centers statewide;

4 (7) information regarding postexposure prophylaxis
5 for HIV infection;

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

10 (9) a statement that the survivor has the right to
11 access a shower for free after the forensic medical examination, if
12 shower facilities are available at the health care facility.

13 SECTION 21. Section 323.0051(a), Health and Safety Code, is
14 amended to read as follows:

15 (a) The commission shall develop a standard information
16 form for sexual assault survivors who arrive at a health care
17 facility that is not a SAFE-ready facility. The information form
18 must include:

19 (1) information regarding the benefits of a forensic
20 medical examination conducted by a sexual assault forensic
21 examiner;

22 (2) the Internet website address to the commission's
23 list of SAFE-ready facilities that includes the facilities'
24 physical addresses as required by Section 323.008;

25 (3) the following statements:

26 (A) "As a survivor of sexual assault, you have
27 the right to receive a forensic medical examination for sexual

1 assault at this hospital emergency room if you are requesting the
2 examination not later than 120 hours after the assault. For parents
3 or guardians of a minor child, your child has the right to receive
4 the forensic medical examination at any time, regardless of when
5 the assault occurred."; and

6 (B) [~~"A report to law enforcement is not~~
7 ~~required, but if you make a report, law enforcement must first~~
8 ~~authorize the examination.~~"]; and

9 [~~(C)~~] "Call 1-800-656-HOPE to be connected to a
10 sexual assault [~~rape~~] crisis center for free and confidential
11 assistance."; and

12 (4) information on the procedure for submitting a
13 complaint against the health care facility.

14 SECTION 22. Section 323.0052(a), Health and Safety Code, is
15 amended to read as follows:

16 (a) The commission shall develop a standard information
17 form that, as described by Subsection (b), is to be provided to
18 sexual assault survivors who have not given signed, written consent
19 to a health care facility to release the evidence as provided by
20 Section 420.0735, Government Code. The form must include the
21 following information:

22 (1) the Department of Public Safety's policy regarding
23 storage of evidence of a sexual assault or other sex offense that is
24 collected under Subchapter G, Chapter 56A, Code of Criminal
25 Procedure, including:

26 (A) a statement that the evidence will be stored
27 until the fifth anniversary of the date on which the evidence was

1 collected before the evidence becomes eligible for destruction; and

2 (B) the department's procedures regarding the
3 notification of the survivor through the statewide electronic
4 tracking system before a planned destruction of the evidence;

5 (2) a statement that the survivor may request the
6 release of the evidence to a law enforcement agency and report a
7 sexual assault or other sex offense to the agency at any time;

8 (3) the name, phone number, and e-mail address of the
9 law enforcement agency with jurisdiction over the offense; and

10 (4) the name and phone number of a local sexual assault
11 [rape] crisis center.

12 SECTION 23. Sections 323.054(a), (c), and (d), Health and
13 Safety Code, are amended to read as follows:

14 (a) A SAFE program shall provide to a sexual assault
15 survivor under the care of the program a forensic medical
16 examination in accordance with Subchapter B, Chapter 420,
17 Government Code, and ~~[if the examination has been requested by a law~~
18 ~~enforcement agency under Subchapter F, Chapter 56A, Code of~~
19 ~~Criminal Procedure, or if the examination is performed in~~
20 ~~accordance with]~~ Subchapter G, Chapter 56A, Code of Criminal
21 Procedure.

22 (c) A sexual assault examiner or sexual assault nurse
23 examiner employed by or under contract with a SAFE program must
24 obtain the ~~[a sexual assault survivor's informed, written]~~ consent
25 described by Article 56A.303, Code of Criminal Procedure, before
26 performing a forensic medical examination or providing medical
27 treatment to the survivor.

1 (d) A sexual assault survivor who receives a forensic
2 medical examination from a sexual assault examiner or sexual
3 assault nurse examiner employed by or under contract with a SAFE
4 program may not be required to:

5 (1) participate in the investigation or prosecution of
6 an offense as a prerequisite to receiving the forensic medical
7 examination or medical treatment; or

8 (2) pay for any [the] costs described by Article
9 56A.304(a), Code of Criminal Procedure [~~of the forensic portion of~~
10 ~~the forensic medical examination or for the evidence collection~~
11 ~~kit~~].

12 SECTION 24. Section 153.003(b), Occupations Code, is
13 amended to read as follows:

14 (b) The rules adopted under this section must prohibit a
15 physician from destroying a medical record from the forensic
16 medical examination of a sexual assault victim conducted under
17 Subchapter [~~F or~~] G, Chapter 56A, Code of Criminal Procedure, until
18 the 20th anniversary of the date the record was created.

19 SECTION 25. The following provisions of the Code of
20 Criminal Procedure are repealed:

21 (1) Subchapter F, Chapter 56A; and

22 (2) Article 56A.306(d).

23 SECTION 26. (a) Except as provided by Subsection (b) of
24 this section, the changes in law made by this Act to Chapters 56A
25 and 56B, Code of Criminal Procedure, apply only to a sexual assault
26 or other sex offense that is first reported or for which medical
27 care is first sought on or after the effective date of this Act. A

1 sexual assault or other sex offense that is first reported or for
2 which medical care was first sought before the effective date of
3 this Act is governed by the law in effect on the date the sexual
4 assault was reported or the medical care was sought, and the former
5 law is continued in effect for that purpose.

6 (b) Article [56A.306\(c\)](#), Code of Criminal Procedure, as
7 amended by this Act, applies only to evidence of a sexual assault or
8 other sex offense collected during a forensic medical examination
9 conducted on or after September 1, 2019.

10 SECTION 27. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1401 passed the Senate on April 19, 2023, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 11, 2023, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1401 passed the House, with amendment, on May 5, 2023, by the following vote: Yeas 137, Nays 2, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor