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S.B. No. 1401

A BILL TO BE ENTITLED

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 and for any prescribed continuing medical care provided to the
4 victim during the 30-day period following that examination; [~~under~~
5 ~~Article 56A.252 for a victim of an alleged sexual assault,~~] and

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

9 (7) the right to:

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

12 (B) participate in the parole process;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (B) a forensic medical examination as ~~to the~~
22 ~~extent~~ provided by Subchapter ~~Subchapters F and~~ G; and

23 (C) any prescribed continuing medical care
24 provided to the victim during the 30-day period following a
25 forensic medical examination, as provided by Subchapter G ~~if,~~
26 ~~within 120 hours of the offense.~~

27 ~~[(i) the offense is reported to a law~~

~~enforcement agency; or~~

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

SECTION 4. The heading to Subchapter [G](#), Chapter [56A](#), Code of Criminal Procedure, is amended to read as follows:

SUBCHAPTER G. FORENSIC MEDICAL EXAMINATION OF SEXUAL ASSAULT

VICTIM [~~NOT REPORTING ASSAULT~~]

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

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

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

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

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

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

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

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

3 (b) referred for a forensic medical
4 examination by a physician, sexual assault examiner, or sexual
5 assault nurse examiner who has conducted a preliminary medical
6 evaluation and determined that a forensic medical examination
7 should be conducted; and

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

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

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

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

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

1 (a) On application to the attorney general and subject to
2 Article 56A.305(e), a health care provider that provides a forensic
3 medical examination to a sexual assault survivor in accordance with
4 this subchapter, or the sexual assault examiner or sexual assault
5 nurse examiner who conducts that examination in accordance with
6 this subchapter, as applicable, [~~within 120 hours after the sexual~~
7 ~~assault occurred~~] is entitled to be reimbursed in an amount set by
8 attorney general rule for:

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

11 (2) the evidence collection kit; and

12 (3) the reasonable costs of other medical care
13 provided to the victim in accordance with Subchapters A and B,
14 Chapter 323, Health and Safety Code, consisting of medical care
15 provided during the forensic medical examination and any prescribed
16 continuing medical care provided to the victim during the 30-day
17 period following the examination, including medication and medical
18 testing.

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

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

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

26 SECTION 7. Subchapter G, Chapter 56A, Code of Criminal
27 Procedure, is amended by adding Article 56A.3045 to read as

follows:

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

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

Art. 56A.305. PAYMENT OF COSTS FOR CERTAIN TESTING AND MEDICAL CARE. (a) The attorney general shall ~~may~~ make a payment to a victim of a sexual assault or on behalf of a victim of a sexual assault ~~[an individual]~~ for the reasonable costs incurred for all testing and medical care that are provided to the victim as described by Articles 56A.304(a)(1), (2), and (3) ~~[in accordance with Sections 323.004, 323.053, and 323.054, Health and Safety Code].~~

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

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

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

(2) is not medically necessary.

(d) The Health and Human Services Commission may contract

1 with a third-party vendor or other entity to provide health care
2 providers access to prescription drugs for purposes of medical care
3 described by Subsection (a).

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

7 SECTION 9. Article [56A.306](#), Code of Criminal Procedure, is
8 amended by amending Subsections (a), (b), and (c) and adding
9 Subsection (a-1) to read as follows:

10 (a) The department, consistent with Chapter [420](#), Government
11 Code, shall develop procedures for the transfer and preservation of
12 evidence collected during a forensic medical examination for a
13 sexual assault that was not reported to a law enforcement agency,
14 including procedures for:

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

18 (2) the preservation of the evidence by the entity
19 receiving the evidence; and

20 (3) the notification of the victim of the offense
21 through the statewide electronic tracking system before a planned
22 destruction of evidence under this article.

23 (a-1) The transfer and preservation of evidence collected
24 during a forensic medical examination for a reported sexual assault
25 must comply with the procedures under Sections [420.035](#)(b) and (c)
26 and [420.042](#)(a), Government Code.

27 (b) Subject to Subsection (c), an entity receiving evidence

1 collected during a forensic medical examination as described by
2 this subchapter [~~described by Subsection (a)~~] shall preserve the
3 evidence until the earlier of:

4 (1) the fifth anniversary of the date on which the
5 evidence was collected; or

6 (2) the date on which written consent to release the
7 evidence is obtained as provided by Section 420.0735, Government
8 Code.

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

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

18 [~~(A) detailed instructions on how the victim may~~
19 ~~make a written objection to the decision, including contact~~
20 ~~information for the entity, or~~

21 [~~(B) a standard form for the victim to complete~~
22 ~~and return to the entity to make a written objection to the~~
23 ~~decision, and~~

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

SECTION 10. 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 sexual assault other than through a forensic medical examination as described by Article 56A.303 [~~56A.303(a)~~].

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

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

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

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

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

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

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

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

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

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

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

(B) for a victim of a sexual assault, regarding the payment under Subchapter G for a forensic medical examination and for any prescribed continuing medical care provided to the victim during the 30-day period following that examination ~~[under Article 56A.252 for a victim of an alleged sexual assault]~~; and

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

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

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

(6) the following statement:

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

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

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

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

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

9 (3) suggested steps the victim may take if the victim
10 is subjected to threats or intimidation;

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

13 (5) notification of:

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

16 (B) the right to file a victim impact statement
17 with the office of the attorney representing the state and the
18 department;

19 (C) the right to receive information:

20 (i) regarding compensation to victims of
21 crime as provided by Chapter 56B, including information relating to
22 ~~[about]~~

23 ~~[(i)]~~ the costs that may be compensated
24 under that chapter, eligibility for compensation, and procedures
25 for application for compensation under that chapter;

26 (ii) for a victim of a sexual assault,
27 regarding the payment under Subchapter G for a forensic medical

1 examination and for any prescribed continuing medical care provided
2 to the victim during the 30-day period following that examination
3 ~~[under Article 56A.252 for a victim of an alleged sexual assault];~~
4 and

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

7 (D) the right of a victim, guardian of a victim,
8 or close relative of a deceased victim, as defined by Section
9 508.117, Government Code, to appear in person before a member of the
10 board as provided by Section 508.153, Government Code.

11 SECTION 14. Article 56B.107, Code of Criminal Procedure, is
12 amended by adding Subsection (d) to read as follows:

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

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

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

20 (1) reimburse a health care provider or a sexual
21 assault examiner or sexual assault nurse examiner for certain costs
22 of a forensic medical examination that are incurred by the provider
23 or the examiner under Subchapter ~~[F-or]~~ G, Chapter 56A~~[, as provided~~
24 ~~by those subchapters]~~; and

25 (2) make a payment to or on behalf of a victim of a
26 sexual assault ~~[an individual]~~ for the reasonable costs incurred
27 for testing and ~~[medical]~~ care provided under Subchapter ~~[F-or]~~ G,

Chapter 56A, as described by Article 56A.305 [~~in accordance with Section 323.004, Health and Safety Code~~].

SECTION 16. Section 57.002(a), Family Code, 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 juvenile justice system:

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

(2) the right to have the court or person appointed by the court take the safety of the victim or the victim's family into consideration as an element in determining whether the child should be detained before the child's conduct is adjudicated;

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

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

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

(B) the appeal of the case;

(5) the right to provide pertinent information to a juvenile court conducting a disposition hearing concerning the

1 impact of the offense on the victim and the victim's family by
2 testimony, written statement, or any other manner before the court
3 renders its disposition;

4 (6) the right to receive information:

5 (A) regarding compensation to victims as
6 provided by Chapter 56B, Code of Criminal Procedure, including
7 information relating ~~[related]~~ to the costs that may be
8 compensated under that chapter and the amount of compensation,
9 eligibility for compensation, and procedures for application for
10 compensation under that chapter;

11 (B) for a victim of a sexual assault, regarding
12 the payment under Subchapter G, Chapter 56A, Code of Criminal
13 Procedure, for a forensic medical examination and for any
14 prescribed continuing medical care provided to the victim during
15 the 30-day period following that examination; ~~[of medical expenses~~
16 ~~under Subchapter F, Chapter 56A, Code of Criminal Procedure, for a~~
17 ~~victim of a sexual assault,~~] and

18 (C) when requested, providing a ~~[to]~~ referral to
19 available social service agencies that may offer additional
20 assistance;

21 (7) the right to be informed, upon request, of
22 procedures for release under supervision or transfer of the person
23 to the custody of the Texas Department of Criminal Justice for
24 parole, to participate in the release or transfer for parole
25 process, to be notified, if requested, of the person's release,
26 escape, or transfer for parole proceedings concerning the person,
27 to provide to the Texas Juvenile Justice Department for inclusion

1 in the person's file information to be considered by the department
2 before the release under supervision or transfer for parole of the
3 person, and to be notified, if requested, of the person's release or
4 transfer for parole;

5 (8) the right to be provided with a waiting area,
6 separate or secure from other witnesses, including the child
7 alleged to have committed the conduct and relatives of the child,
8 before testifying in any proceeding concerning the child, or, if a
9 separate waiting area is not available, other safeguards should be
10 taken to minimize the victim's contact with the child and the
11 child's relatives and witnesses, before and during court
12 proceedings;

13 (9) the right to prompt return of any property of the
14 victim that is held by a law enforcement agency or the attorney for
15 the state as evidence when the property is no longer required for
16 that purpose;

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

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

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

27 SECTION 17. Section 501.174, Government Code, is amended to

1 read as follows:

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

4 (1) a designated administrator at each correctional
5 facility to post information throughout the facility describing how
6 an inmate may confidentially contact the ombudsperson regarding a
7 sexual assault;

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

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

12 (A) contact the ombudsperson and the office of
13 the inspector general; and

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

15 (4) the office of the inspector general, at the time
16 the office is notified of the sexual assault, to arrange for a
17 medical examination of the alleged victim to be conducted in
18 accordance with Subchapter G [~~F~~], Chapter 56A, Code of Criminal
19 Procedure, or, if an appropriate employee of the office of the
20 inspector general is not available at the time the office is
21 notified of the sexual assault, a qualified employee at the
22 correctional facility to conduct a medical examination of the
23 alleged victim in accordance with that subchapter;

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

27 (6) each correctional facility to collect statistics

on all alleged sexual assaults against inmates confined in the facility and to report the statistics to the ombudsperson.

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

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

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

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

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

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

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

(4) the information form required by Section 323.005;

(5) a private treatment room, if available;

1 (6) if indicated by the history of contact, access to
2 appropriate prophylaxis for exposure to sexually transmitted
3 infections;

4 (7) the name and telephone number of the nearest
5 sexual assault crisis center; and

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

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

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

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

16 (2) information regarding treatment of sexually
17 transmitted infections and pregnancy, including:

18 (A) generally accepted medical procedures;

19 (B) appropriate medications; and

20 (C) any contraindications of the medications
21 prescribed for treating sexually transmitted infections and
22 preventing pregnancy;

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

26 (4) information regarding crime victims compensation
27 and regarding the payment of costs and the reimbursements available

1 for testing and care to be provided as described by Subchapter G,
2 Chapter 56A, Code of Criminal Procedure [~~, including:~~

3 ~~[(A) a statement that public agencies are~~
4 ~~responsible for paying for the forensic portion of an examination~~
5 ~~conducted under Subchapter F or G, Chapter 56A, Code of Criminal~~
6 ~~Procedure, and for the evidence collection kit used in connection~~
7 ~~with the examination and that the health care facility or provider,~~
8 ~~as applicable, is responsible for seeking reimbursement for those~~
9 ~~costs; and~~

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

12 (5) an explanation that consent for the forensic
13 medical examination may be withdrawn at any time during the
14 examination;

15 (6) the name and telephone number of sexual assault
16 crisis centers statewide;

17 (7) information regarding postexposure prophylaxis
18 for HIV infection;

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

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

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

1 (a) The commission shall develop a standard information
2 form for sexual assault survivors who arrive at a health care
3 facility that is not a SAFE-ready facility. The information form
4 must include:

5 (1) information regarding the benefits of a forensic
6 medical examination conducted by a sexual assault forensic
7 examiner;

8 (2) the Internet website address to the commission's
9 list of SAFE-ready facilities that includes the facilities'
10 physical addresses as required by Section [323.008](#);

11 (3) the following statements:

12 (A) "As a survivor of sexual assault, you have
13 the right to receive a forensic medical examination for sexual
14 assault at this hospital emergency room if you are requesting the
15 examination not later than 120 hours after the assault. For parents
16 or guardians of a minor child, your child has the right to receive
17 the forensic medical examination at any time, regardless of when
18 the assault occurred.";

19 (B) "A report to law enforcement is not required,
20 but if you are an adult survivor who for any reason did not make a
21 timely request for the forensic medical examination ~~[make a~~
22 ~~report]~~, law enforcement may be required to ~~[must]~~ first authorize
23 the examination."; and

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

27 (4) information on the procedure for submitting a

complaint against the health care facility.

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

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

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

(A) a statement that the evidence will be stored until the fifth anniversary of the date on which the evidence was collected before the evidence becomes eligible for destruction; and

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

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

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

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

SECTION 23. Sections 323.054(a), (c), and (d), Health and

Safety Code, are amended to read as follows:

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

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

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

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

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

SECTION 24. Section 153.003(b), Occupations Code, is

1 amended to read as follows:

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

7 SECTION 25. The following provisions of the Code of
8 Criminal Procedure are repealed:

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

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

11 SECTION 26. The changes in law made by this Act to Chapters
12 56A and 56B, Code of Criminal Procedure, apply only to a sexual
13 assault or other sex offense that is first reported or for which
14 medical care is first sought on or after the effective date of this
15 Act. A sexual assault or other sex offense that is first reported
16 or for which medical care was first sought before the effective date
17 of this Act is governed by the law in effect on the date the sexual
18 assault was reported or the medical care was sought, and the former
19 law is continued in effect for that purpose.

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