

## **BILL ANALYSIS**

S.B. 836  
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Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

One of the primary barriers for a survivor of sexual assault who is seeking justice is fear over the loss of privacy. The bill sponsor has informed the committee that survivors already bear the burden of the most egregious invasion of personal autonomy, and to be forced into sharing private and personal information in the public sphere is often too much for a victim of sexual violence, which can jeopardize a successful prosecution. However, measures that provide some basic safeguards to survivors' privacy may encourage their continued participation in the criminal justice process, lead to an increase in successful prosecutions, and reduce the trauma and public nature of the judicial experience for survivors. S.B. 836 seeks to provide those safeguards to sexual assault survivors throughout the criminal justice process by prohibiting the livestreaming of trials relating to sexual crimes unless the requisite consent is given, providing the right to request usage of a pseudonym in the prosecution phase, and safeguarding certain evidence of forensic medical examination and invasive visual recordings.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 836 amends the Code of Criminal Procedure to set out provisions relating to the discovery of evidence depicting an invasive visual recording of a person 14 years of age or older and the discovery of property or material from a forensic medical examination performed on certain victims. The bill revises provisions relating to information of victims of sexual offenses and to the duties of peace officers regarding interactions with those victims.

#### **Discovery of Evidence Depicting Invasive Visual Recording of a Person 14 Years of Age or Older**

S.B. 836 requires a court, in a manner provided by the bill, to allow discovery of property or material that constitutes or contains an invasive visual image of a person 14 years of age or older and that was seized by law enforcement based on a reasonable suspicion that the offense of invasive visual recording has been committed. The bill requires the court to enter a protective order that prohibits copying or dissemination of such property or material that is produced to the defendant or the defendant's attorney during the discovery of evidence. Any such property or material that is produced during discovery and not offered as and admitted to evidence must either be returned to the state or destroyed at the time of the final disposition of the case. These

bill provisions apply only to a court hearing or proceeding that commences on or after the bill's effective date. A court hearing or proceeding that commences before the bill's effective date is governed by the law in effect on the date the hearing or proceeding commenced, and the former law is continued in effect for that purpose.

### **Discovery of Property or Material From Forensic Medical Examination**

S.B. 836 requires a court, in the manner provided by the bill, to allow the discovery of property or material that constitutes or contains a visual image or a recording that was made as part of a forensic medical examination. The bill requires the court to enter a protective order that prohibits copying or dissemination of such property or material that is produced to the defendant or the defendant's attorney during the discovery of evidence. Any such property or material that is produced during discovery and not offered as and admitted to evidence must either be returned to the state or destroyed at the time of the final disposition of the case. These provisions apply only to a court hearing or proceeding that commences on or after the bill's effective date. A court hearing or proceeding that commences before the bill's effective date is governed by the law in effect on the date the hearing or proceeding commenced, and the former law is continued in effect for that purpose.

### **Prohibited Use of Certain Evidence From Forensic Medical Examination**

S.B. 836 prohibits a court, during the course of a criminal hearing or proceeding, from making available or allowing to be made available for copying or dissemination to the public any property or material related to or derived from evidence collected during a forensic medical examination of a sexual assault victim, including a visual image or a recording made as part of the examination. The bill requires the court to place that property or material under seal of the court on the conclusion of the hearing or proceeding. A court that places under seal such property or material may issue an order lifting the seal on a finding that the order is in the best interest of the public. These provisions apply only to a court hearing or proceeding that commences on or after the bill's effective date. A court hearing or proceeding that commences before the bill's effective date is governed by the law in effect on the date the hearing or proceeding commenced, and the former law is continued in effect for that purpose.

### **Evidence Depicting Invasive Visual Recordings**

S.B. 836 extends the applicability of the prohibition against a court, during the course of a criminal hearing or proceeding concerning an invasive visual recording offense, from making available or allowing to be made available for copying or dissemination to the public property or material that constitutes or contains a visual image of a child younger than 14 years of age and that was seized by law enforcement based on a reasonable suspicion that such an offense has been committed by removing the restriction of that applicability to such property or material that constitutes or contains a visual image of a child younger than 14 years of age. These provisions apply only to a court hearing or proceeding that commences on or after the bill's effective date. A court hearing or proceeding that commences before the bill's effective date is governed by the law in effect on the date the hearing or proceeding commenced, and the former law is continued in effect for that purpose.

### **Pseudonym Forms**

S.B. 836 gives a sex offense victim who completes a pseudonym form the option to return that form to the office of the state's attorney prosecuting the offense as an alternative to returning the form to the law enforcement agency investigating the offense. The bill expands the requirement for the Sexual Assault Prevention and Crisis Services Program to develop and distribute a pseudonym form to all law enforcement agencies of the state by requiring the program to also distribute the form to each state's attorney's office.

S.B. 836 prohibits a victim who completes a pseudonym form and returns that form to the state's attorney from being required to disclose their name, address, and telephone number in connection with the investigation or prosecution of the offense. The bill requires a law enforcement agency or a state's attorney receiving a pseudonym form to send a copy of that form to each other agency or office investigating or prosecuting the offense. The bill requires a state's attorney's office receiving the form or a copy of the form to do the following:

- remove the victim's name and substitute the pseudonym for the name on all reports, files, and records in the office's possession; and
- maintain the form in a manner that protects the confidentiality of the information contained on the form.

### **Duties of Peace Officers Regarding Victims of Sexual Assault**

S.B. 836 expands the contents of the written notice provided to adult victims of sexual assault by an investigating or responding peace officer to include information about the rights and procedures under statutory provisions governing the confidentiality of identifying information and medical records of certain crime victims. Accordingly, the bill includes among the statements that such a notice must contain to be considered sufficient a statement notifying the victim of their right, if a defendant is arrested for a crime against the victim involving certain sexual crimes, stalking, or trafficking, to request, using such procedures, a pseudonym to be used instead of the victim's name in all public files and records concerning the offense. These provisions apply only to a peace officer's investigation or response that occurs on or after the bill's effective date. A peace officer's investigation or response that occurs before the bill's effective date is governed by the law in effect on the date the investigation was conducted or the response was made, and the former law is continued in effect for that purpose.

### **Electronic Transmission of Certain Court Proceedings**

S.B. 836 amends the Government Code to require a court, before allowing the electronic transmission or broadcasting of court proceedings in which evidence or testimony is offered that depicts or describes acts of a sexual nature, to provide notice to and receive express consent for the transmission or broadcasting from the victim or the parent, conservator, or guardian of the victim, as applicable, the state's attorney, and the defendant. This requirement applies to the following:

- criminal or civil court proceedings relating to an offense of:
  - continuous sexual abuse of a young child or disabled individual, indecency with a child, invasive visual recording, sexual assault, indecent assault, or aggravated sexual assault;
  - trafficking of persons offense involving an actor who:
    - traffics another person and, through force, fraud, or coercion, causes the trafficked person to engage in certain prostitution offenses;
    - traffics a child or disabled individual and by any means causes the trafficked child or disabled individual to engage in, or become the victim of, certain sexual offenses, assaultive offenses, or public indecency offenses; or
    - receives a benefit from participating in a venture that involves such trafficking conduct or engages in sexual conduct with such a trafficked person, child, or disabled individual; or
  - continuous trafficking of persons, if the offense is based partly or wholly on conduct that constitutes an offense relating to the aforementioned trafficking offenses; and
- court proceedings relating to:
  - a protective order for victims of sexual assault or abuse, indecent assault, stalking, or trafficking, a stalking protective order, or a protective order prohibiting an offense motivated by bias or prejudice;
  - a magistrate's order for emergency protection;

- a temporary protective order issued on the motion of a party to a suit for dissolution of a marriage; or
- a protective order issued on a finding that family violence has occurred.

This requirement applies only to a court hearing or proceeding that commences on or after the bill's effective date. A court hearing or proceeding that commences before that date is governed by the law in effect on the date the hearing or proceeding commenced, and the former law is continued in effect for that purpose.

**EFFECTIVE DATE**

September 1, 2025.