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S.B. No. 836

A BILL TO BE ENTITLED

AN ACT

relating to victims of sex offenses, sex-based human trafficking offenses, or acts of a sexual nature and to the confidentiality of or restrictions on the availability of certain property, material, or information regarding those victims, offenses, or acts.

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 OR OTHER SEX OFFENSE; PLACEMENT UNDER SEAL. (a) Evidence collected during a forensic medical examination conducted under Subchapter 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.

(b) During the course of a criminal hearing or proceeding, the court may not make available or allow to be made available for copying or dissemination to the public any property or material related to or derived from evidence described by Subsection (a), including a visual image or a recording made as part of the examination.

(c) The court shall place property or material described by Subsection (a) under seal of the court on the conclusion of the

1 hearing or proceeding.

2 (d) A court that places under seal property or material
3 described by Subsection (a) may issue an order lifting the seal on a
4 finding that the order is in the best interest of the public.

5 SECTION 2. The heading to Article 38.451, Code of Criminal
6 Procedure, is amended to read as follows:

7 Art. 38.451. EVIDENCE DEPICTING INVASIVE VISUAL RECORDING
8 ~~[OF CHILD]~~.

9 SECTION 3. Article 38.451(a), Code of Criminal Procedure,
10 is amended to read as follows:

11 (a) During the course of a criminal hearing or proceeding
12 concerning an offense under Section 21.15, Penal Code, ~~[that was~~
13 ~~committed against a child younger than 14 years of age,~~ the court
14 may ~~[shall]~~ not make available or allow to be made available for
15 ~~[the]~~ copying or dissemination to the public property or material
16 that constitutes or contains a visual image, as described by
17 Section 21.15(b), Penal Code, ~~[of a child younger than 14 years of~~
18 ~~age]~~ and that was seized by law enforcement based on a reasonable
19 suspicion that an offense under that subsection has been committed.

20 SECTION 4. Chapter 39, Code of Criminal Procedure, is
21 amended by adding Articles 39.152 and 39.153 to read as follows:

22 Art. 39.152. DISCOVERY OF EVIDENCE DEPICTING INVASIVE
23 VISUAL RECORDING OF PERSON 14 YEARS OF AGE OR OLDER. (a) In the
24 manner provided by this article, a court shall allow discovery of
25 property or material that constitutes or contains a visual image,
26 as described by Section 21.15(b), Penal Code, of a person 14 years
27 of age or older and that was seized by law enforcement based on a

1 reasonable suspicion that an offense under that subsection has been
2 committed.

3 (b) The court shall enter a protective order that prohibits
4 copying or dissemination of property or material described by
5 Subsection (a) that is produced to the defendant or the defendant's
6 attorney under Article 39.14.

7 (c) Any property or material described by Subsection (a)
8 that is produced under Article 39.14 and not offered as and admitted
9 to evidence must either be returned to the state or destroyed at the
10 time of the final disposition of the case.

11 Art. 39.153. DISCOVERY OF PROPERTY OR MATERIAL FROM
12 FORENSIC MEDICAL EXAMINATION PERFORMED ON VICTIM OF SEXUAL ASSAULT
13 OR OTHER SEX OFFENSE. (a) In the manner provided by this article, a
14 court shall allow discovery of property or material that
15 constitutes or contains a visual image or a recording that was made
16 as part of a forensic medical examination.

17 (b) The court shall enter a protective order that prohibits
18 copying or dissemination of property or material described by
19 Subsection (a) that is produced to the defendant or the defendant's
20 attorney under Article 39.14.

21 (c) Any property or material described by Subsection (a)
22 that is produced under Article 39.14 and not offered as and admitted
23 to evidence must either be returned to the state or destroyed at the
24 time of the final disposition of the case.

25 SECTION 5. Articles 56A.403(a) and (d), Code of Criminal
26 Procedure, are amended to read as follows:

27 (a) A peace officer who investigates an incident involving

1 sexual assault or who responds to a disturbance call that may
2 involve sexual assault shall provide to the victim a written notice
3 containing information about the rights of crime victims under
4 Article [56A.052](#) and the rights and procedures under Chapter 58.

5 (d) The notice required by Subsection (b) must be in English
6 and Spanish and include the current contact information for a
7 victim assistance coordinator under Article [56A.201](#) and a crime
8 victim liaison under Article [56A.203](#). The notice is considered
9 sufficient if it includes the following statements:

10 "NOTICE TO ADULT VICTIMS OF SEXUAL ASSAULT"

11 "It is a crime for any person to cause you any physical injury
12 or harm."

13 "Please tell the investigating peace officer if you have been
14 injured or if you feel you are going to be in danger when the officer
15 leaves or at a later time."

16 "You have the right to:

17 "(1) obtain a forensic medical examination within 120 hours
18 of the assault to collect potential evidence and receive
19 preventative medications, even if you decide not to make a report to
20 a law enforcement agency;

21 "(2) anonymously track or receive updates regarding the
22 status and location of each item of evidence collected in your case;

23 "(3) have a sexual assault program advocate present during a
24 forensic medical examination;

25 "(4) have a sexual assault program advocate or other
26 victim's representative present during an investigative interview
27 with law enforcement;

1 "(5) ask the local prosecutor to file a criminal complaint
2 against the person who assaulted you; and

3 "(6) if a defendant is arrested for a crime against you
4 involving certain sexual crimes, stalking, or trafficking:

5 "(A) request an order for emergency protection to be
6 issued by a magistrate; ~~and~~

7 "(B) using procedures provided by Chapter 58, Code of
8 Criminal Procedure, request a pseudonym to be used instead of your
9 name in all public files and records concerning the offense; and

10 "(C) apply to a court for a permanent order to protect
11 you (you should consult a legal aid office, a prosecuting attorney,
12 or a private attorney)."

13 "For example, the court can enter an order that prohibits the
14 person who assaulted you from:

15 "(1) committing further acts of violence;

16 "(2) threatening, harassing, or contacting you or a member
17 of your family or household; and

18 "(3) going near your place of employment or near a child
19 care facility or school attended by you or a member of your family
20 or household."

21 "You cannot be charged a fee by a court in connection with
22 filing, serving, or entering a protective order."

23 "If you have questions about the status of your case or need
24 assistance, you may contact the crime victim liaison (insert name)
25 at our agency (law enforcement agency address and victim liaison
26 phone number)."

27 "If you would like to speak with someone in the prosecuting

1 attorney's office, you may reach their victim assistance
2 coordinator at (address and phone number)."

3 "Call the following sexual assault program or social service
4 organization if you need assistance or wish to speak with an
5 advocate:

6 " _____
7 " _____."

8 "You may receive a sexual assault forensic medical
9 examination at the following location(s):

10 " _____
11 " _____."

12 "To get help from the National Human Trafficking Hotline:
13 1-888-373-7888 or text HELP or INFO to BeFree (233733)."

14 SECTION 6. Article 58.102, Code of Criminal Procedure, is
15 amended to read as follows:

16 Art. 58.102. DESIGNATION OF PSEUDONYM; PSEUDONYM FORM. (a)
17 A victim may choose a pseudonym to be used instead of the victim's
18 name to designate the victim in all public files and records
19 concerning the offense, including police summary reports, press
20 releases, and records of judicial proceedings. A victim who elects
21 to use a pseudonym as provided by this subchapter must complete a
22 pseudonym form developed under Subsection (b) and return the form
23 to the law enforcement agency investigating the offense or to the
24 office of the attorney representing the state prosecuting the
25 offense.

26 (b) The Sexual Assault Prevention and Crisis Services
27 Program of the office of the attorney general shall develop and

1 distribute to all law enforcement agencies of the state and to each
2 office of the attorney representing the state a pseudonym form to
3 record the name, address, telephone number, and pseudonym of a
4 victim.

5 SECTION 7. Article 58.103, Code of Criminal Procedure, is
6 amended to read as follows:

7 Art. 58.103. VICTIM INFORMATION CONFIDENTIAL. (a) A
8 victim who completes a pseudonym form and returns the form to the
9 law enforcement agency investigating the offense or to the office
10 of the attorney representing the state prosecuting the offense may
11 not be required to disclose the victim's name, address, and
12 telephone number in connection with the investigation or
13 prosecution of the offense.

14 (b) A law enforcement agency or an office of the attorney
15 representing the state receiving a pseudonym form under Subsection
16 (a) shall send a copy of the form to each other agency or office
17 investigating or prosecuting the offense.

18 (c) A completed and returned pseudonym form is confidential
19 and may not be disclosed to any person other than a defendant in the
20 case or the defendant's attorney, except as provided by Subsection
21 (b) or by [on an] order of a court. The court finding required by
22 Article 58.104 is not required to disclose the confidential
23 pseudonym form to the defendant in the case or to the defendant's
24 attorney.

25 (d) A [~~(c) If a victim completes a pseudonym form and~~
26 ~~returns the form to a law enforcement agency under Article~~
27 ~~58.102(a), the]~~ law enforcement agency receiving the form or a copy

1 of the form shall:

2 (1) remove the victim's name and substitute the
3 pseudonym for the name on all reports, files, and records in the
4 agency's possession; and

5 (2) ~~[notify the attorney representing the state of the~~
6 ~~pseudonym and that the victim has elected to be designated by the~~
7 ~~pseudonym; and~~

8 ~~[(3)]~~ maintain the form in a manner that protects the
9 confidentiality of the information contained on the form.

10 (e) An office of the attorney representing the state
11 receiving the form or a copy of the form shall:

12 (1) remove the victim's name and substitute the
13 pseudonym for the name on all reports, files, and records in the
14 office's possession;

15 (2) maintain the form in a manner that protects the
16 confidentiality of the information contained on the form; and

17 (3) ~~[(d) An attorney representing the state who~~
18 ~~receives notice that a victim has elected to be designated by a~~
19 ~~pseudonym shall]~~ ensure that the victim is designated by the
20 pseudonym in all legal proceedings concerning the offense.

21 SECTION 8. Chapter 21, Government Code, is amended by
22 adding Section 21.014 to read as follows:

23 Sec. 21.014. ELECTRONIC TRANSMISSION OF COURT PROCEEDINGS
24 IN CERTAIN CASES PROHIBITED. (a) This section applies to the
25 following:

26 (1) criminal or civil court proceedings relating to an
27 offense under:

1 (A) Section 21.02, 21.11, 21.15, 22.011, 22.012,
2 or 22.021, Penal Code;

3 (B) Section 20A.02(a)(3), (4), (7), or (8), Penal
4 Code; or

5 (C) Section 20A.03, Penal Code, if the offense is
6 based partly or wholly on conduct that constitutes an offense
7 described by Paragraph (B); and

8 (2) court proceedings relating to:

9 (A) a protective order under Chapter 7B, Code of
10 Criminal Procedure;

11 (B) a magistrate's order for emergency
12 protection issued under Article 17.292, Code of Criminal Procedure;

13 (C) a protective order issued under Section
14 6.504, Family Code; or

15 (D) a protective order issued under Chapter 85,
16 Family Code.

17 (b) A court may not allow the electronic transmission or
18 broadcasting of court proceedings described by Subsection (a) in
19 which evidence or testimony is offered that depicts or describes
20 acts of a sexual nature unless the court provides notice to and
21 receives express consent for the transmission or broadcasting from:

22 (1) the victim or the parent, conservator, or guardian
23 of the victim, as applicable;

24 (2) the attorney representing the state; and

25 (3) the defendant.

26 SECTION 9. Articles 38.435 and 38.451, Code of Criminal
27 Procedure, as amended by this Act, and Articles 39.152 and 39.153,

1 Code of Criminal Procedure, and Section 21.014, Government Code, as
2 added by this Act, apply only to a court hearing or proceeding that
3 commences on or after the effective date of this Act. A court
4 hearing or proceeding that commences before the effective date of
5 this Act is governed by the law in effect on the date the hearing or
6 proceeding commenced, and the former law is continued in effect for
7 that purpose.

8 SECTION 10. Article 56A.403, Code of Criminal Procedure, as
9 amended by this Act, applies only to a peace officer's
10 investigation or response that occurs on or after the effective
11 date of this Act. A peace officer's investigation or response that
12 occurs before the effective date of this Act is governed by the law
13 in effect on the date the investigation was conducted or the
14 response was made, and the former law is continued in effect for
15 that purpose.

16 SECTION 11. This Act takes effect September 1, 2025.