

BILL ANALYSIS

C.S.H.B. 1172
By: Howard
Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Texas lawmakers have made significant investments in recent years to improve criminal justice experiences for survivors of sexual assault in the form of better testing and tracking of rape kits and expanded access to health care in the immediate aftermath of an assault. Despite these investments, survivors report that the process of engaging in the criminal justice system remains retraumatizing and difficult. Many have indicated that they fear reporting their assault to law enforcement and not being believed. Expanding sexual assault survivors' rights during engagement with law enforcement would help protect their dignity and increase the likelihood that survivors will stay engaged with the criminal justice process.

C.S.H.B. 1172 seeks to improve the survivor experience by guaranteeing that sexual assault victims have the right to an advocate's presence during law enforcement interviews, prohibiting the use of polygraphs on victims, and ensuring that law enforcement officers cannot decline to request a forensic medical examination for a sexual assault reported within the applicable period.

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

C.S.H.B. 1172 amends the Code of Criminal Procedure to prohibit a peace officer or a state's attorney from requesting or taking a polygraph examination of a person who charges or seeks to charge in a complaint the commission of any of the following offenses:

- continuous sexual abuse of a young child or children;
- indecency with a child;
- sexual assault;
- aggravated sexual assault; or
- an offense involving certain prohibited familial sexual conduct.

C.S.H.B. 1172 repeals a provision authorizing a law enforcement agency to decline to request a forensic medical examination of a victim of a sexual assault that was reported within 120 hours under the following circumstances:

- the person reporting the assault has made one or more false reports of sexual assault to any law enforcement agency; and
- there is no other evidence to corroborate the person's current allegations.

C.S.H.B. 1172 requires a peace officer, before conducting an interview with a victim reporting a sexual assault, other than a victim who is a minor, to offer the victim the opportunity to have an advocate from a sexual assault program be present with the victim during the interview, if the advocate is available at the time of the interview. The bill requires that advocate to have completed a sexual assault training program certified by the attorney general. If a qualified advocate is not available at the time of the interview, the peace officer conducting the interview is required to offer the victim the opportunity to have a crime victim liaison or victim's assistance counselor be present with the victim during the interview.

C.S.H.B. 1172 authorizes an advocate, liaison, or counselor authorized to be present during an interview to provide the victim with counseling, support services, and information regarding the rights of crime victims. The bill prohibits the advocate, liaison, or counselor and the program or other entity providing the advocate, liaison, or counselor from delaying or otherwise impeding the interview process. The bill requires all costs associated with providing an advocate or counselor to be paid by the program or entity providing that person's services. A peace officer or law enforcement agency that provides an advocate, liaison, or counselor with access to a victim reporting a sexual assault is not subject to civil or criminal liability for providing that access.

C.S.H.B. 1172 requires a penal institution, at the request of a victim reporting a sexual assault that occurred while the victim was confined in the institution, to provide a representative to be present with the victim during an interview conducted by a peace officer and related to the investigation of the alleged assault. The representative must be approved by the penal institution and meet certain professional or training requirements. The bill prohibits the representative from delaying or otherwise impeding the interview process.

C.S.H.B. 1172 repeals the following provisions of the Code of Criminal Procedure:

- Articles 15.051(b) and (c); and
- Article 56A.251(b).

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1172 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute clarifies that its provisions relating to the presence of a sexual assault program advocate or other victim's representative during a law enforcement interview do not apply to a victim who is a minor.

The substitute includes provisions requiring a penal institution to provide for a representative to be present at the interview between a peace officer and a victim reporting a sexual assault that occurred while the victim was confined in the institution.