

**SUBJECT:** Creating a statewide electronic tracking system for evidence in sex crimes

**COMMITTEE:** Criminal Jurisprudence — committee substitute recommended

**VOTE:** 7 ayes — Moody, Hunter, Canales, Gervin-Hawkins, Hefner, Lang,  
Wilson

0 nays

**WITNESSES:** For — Torie Camp, Joyful Heart Foundation; Aja Gair, SAFE; Chris Kaiser, Texas Association Against Sexual Assault; Justin Wood, Travis County District Attorney's Office; Wendy Davis; Mia Goldstein; *(Registered, but did not testify: Joey Gidseg, Shane Johnson, Chas Moore, and Alexandra Peek, Austin Justice Coalition (AJC); Frank Dixon, Austin Police Department; Nakia Winfield, NASW-TX; Eric Kunish, National Alliance on Mental Illness Austin affiliate; Vincent Giardino, Tarrant County Criminal District Attorney's Office; Julie Wheeler, Travis County Commissioners Court; James Thurston, United Ways of Texas; and 13 individuals)*

Against — *(Registered, but did not testify: CJ Grisham, Open Carry Texas)*

On — Peter Stout, Houston Forensic Science Center; Laurie Charles, Texas A&M Health Science Center; *(Registered, but did not testify: Skylor Hearn, Department of Public Safety)*

**BACKGROUND:** Code of Criminal Procedure, art. 56.02 establishes the rights of crime victims, and art. 56.021 establishes additional rights for victims of sexual assault or abuse. Art. 56.021 gives victims the right to the disclosure of information about evidence collected during an investigation of the offense, unless the disclosure would interfere with the crime's investigation or prosecution. Victims also have the right to information about the status of analysis of the evidence. They can ask to be notified when a request to analyze evidence is submitted to a crime lab, when a request is submitted to compare biological evidence with DNA profiles in

state or federal DNA databases, and of the results of the comparison, if knowing the results would not compromise the case's investigation or prosecution.

DIGEST:

CSHB 281 would require the Texas Department of Public Safety (DPS) to develop and implement a statewide electronic tracking system for evidence collected in cases involving sexual assault or other sex offenses. The tracking system would include evidence from kits used to collect evidence from a sexual assault or other sex offense and other biological evidence of a sexual assault or other sex offense.

The bill would establish requirements for the tracking system, which would have to track the status and location of each item of evidence through various stages of the criminal justice process, allow entities involved in handling the evidence to update and track the status and location of evidence, and allow survivors anonymously to track or receive updates on the status of evidence.

DPS would require participation in the tracking system by any entity that collected evidence of sexual assaults or other sex offenses or that investigated or prosecuted such offenses.

Records entered into the tracking system would be confidential and not subject to disclosure under the state's public information laws. Records of the evidence being tracked could be accessed only by the survivor from whom the evidence was collected or an employee of an entity collecting the evidence or investigating or prosecuting the case.

Employees of DPS or an entity collecting the evidence or investigating or prosecuting the case could not disclose information to a parent or legal guardian of a survivor that would help in accessing the evidence records if the employee knew or had reason to believe that the parent or guardian was a suspect or suspected accomplice in the offense.

CSHB 281 would take effect September 1, 2017. DPS would have to require all entities collecting the evidence of sexual assaults or other sex

offenses or investigating or prosecuting these offenses to participate in the tracking system by September 1, 2019.

SUPPORTERS  
SAY:

CSHB 281 is necessary to ensure that survivors of sexual assault and other sexual offenses are kept informed about the progress in their cases. While sexual assault survivors currently have a right to information about the status of the analysis of evidence at certain junctures in their cases, the information is limited, and the process has proved onerous and at times inadequate due to the limited staff in crime labs and law enforcement entities.

Evidence in sex crimes moves through several entities during the investigation and prosecution of a case. Current law requires only that sexual assault survivors be notified at limited times, including when a request to analyze evidence is submitted to a crime lab, when a request is filed to compare evidence in a case to evidence in state and federal databases, and when the results of such a comparison are available. Survivors can remain uninformed about the status of evidence at numerous other points in their cases, which can leave them anxious, fearful, and traumatized.

The bill would improve this situation by establishing a statewide, integrated electronic tracking system for evidence in sex crimes. Survivors could receive more information than they currently do by tracking the location and status of evidence throughout the entire criminal justice process, including information from health care facilities, law enforcement agencies, crime labs, and prosecutors' offices. Survivors could find out when an entity received evidence, when analysis was pending, when it was complete, and when it was stored or destroyed. Giving survivors this additional information about their cases would increase trust and transparency in the criminal justice system.

The bill would not compromise investigations or survivors' privacy because the tracking system would be confidential and limited in terms of who could use it. The system could be accessed only by survivors and

employees of an entity handling the evidence, and information in the system would involve only the location and status of evidence, not results. Survivors could choose to opt in to the system, giving them a sense of control over their cases. The bill also would protect survivors whose parent or guardian might be a suspect in a case.

The Department of Public Safety (DPS) has experience with crime databases, evidence tracking, and handling sexual assault kits, making it the best entity to establish the tracking system. DPS would develop the system and roll it out to other entities so that it would not burden local law enforcement, labs, or others. The tracking system could be similar to the way some packages are tracked and could use radio-frequency identification chips or similar technology. It also could be modeled on the way crime evidence is often tracked currently using barcodes. The system could be web based and easily accessed by local entities so as not to impose a significant demand on their resources.

Given the backlog of sexual assault kits that need testing and the traumatic nature of sexual assault, establishing a tracking system focused on evidence in sexual assault cases would be another important step in the state's efforts to improve this process.

OPPONENTS  
SAY:

An entity other than DPS might be better suited to establish and house the evidence tracking system. For example, the attorney general's office has a crime victim services division that administers the crime victims' compensation program and other victims' program.

Participating in the statewide electronic database could stress the resources of some entities, especially small or rural law enforcement agencies. Entities may need computers, software, bar code readers or similar technology, as well as staff time to implement the system.

OTHER  
OPPONENTS  
SAY:

CSHB 281 could lead to calls from victims of other crimes to have a similar evidence tracking system, which could strain state and local resources.

NOTES:

CSHB 281 would cost the state \$1.3 million in general revenue in fiscal 2018 and \$238,185 each year after, according to the Legislative Budget Board's fiscal note. The bill could result in possible, if undetermined, fiscal impacts on local law enforcement and would obligate local entities involved in these cases to participate in the tracking system.

CSHB 281 made several changes to the filed version of the bill, including expanding it to include biological evidence in addition to evidence from collection kits and prohibiting employees of DPS and other entities from disclosing certain information to a parent or guardian whom the employee knew or had reason to believe was a suspect in the case.