

- SUBJECT:** Expanding services and care to sexual assault victims
- COMMITTEE:** Homeland Security and Public Safety — committee substitute recommended
- VOTE:** 9 ayes — White, Bowers, Goodwin, Harless, Hefner, E. Morales, Patterson, Schaefer, Tinderholt
- 0 nays
- WITNESSES:** For — Justin Wood, Children’s Advocacy Centers of Texas; Elizabeth Boyce, Texas Association Against Sexual Assault; (*Registered, but did not testify*: Warren Burkley, Austin Justice Coalition; M. Paige Williams, for Dallas County Criminal District Attorney John Creuzot; Jenny Black, Safe Alliance; Lindy Borchardt, for Tarrant County Criminal District Attorney Sharen Wilson; and 14 individuals)
- Against — (*Registered, but did not testify*: Julie Campbell)
- On — Kaye Hotz, Office of the Attorney General
- BACKGROUND:** Health and Safety Code sec. 323.0015 requires the Department of State Health Services to designate a health care facility as a sexual assault forensic exam-ready facility, or SAFE-ready facility, if the facility notifies the department that it employs or contracts with a sexual assault forensic examiner or uses a telemedicine system to provide consultation to a licensed nurse or physician when conducting a sexual assault forensic medical exam.
- Some have called for continued efforts to address and improve services available to survivors of sexual assault in Texas. The Legislature recently established the Sexual Assault Survivors' Task Force to examine solutions, and the task force's first report was released in November 2020 and included several policy recommendations for lawmakers to consider.
- DIGEST:** CSHB 2706 would revise processes related to the reporting, preserving,

and analyzing evidence of sexual assault and other sex offenses and operations related to emergency services and care provided to victims.

Sexual Assault Forensic Exam (SAFE) programs. The bill would expand SAFE-ready facilities by requiring the Health and Human Services Commission (HHSC) to designate a SAFE program as a SAFE-ready facility if it met the criteria for such a facility under Health and Safety Code sec. 323.0015. A person could operate a SAFE program only if the program met certain minimum standards and provided forensic medical exams to sexual assault survivors.

Minimum standards. The bill would establish the minimum standards for SAFE programs, including that a program would have to:

- operate under the active oversight of a medical director who was a licensed physician;
- employ or contract with a sexual assault examiner and provided access to a sexual assault program advocate;
- ensure a survivor has access to a private treatment room;
- provide certain treatment and care indicated by a survivor's history, including access to treatment for HIV, sexually transmitted infections, and pregnancy;
- provide information on crime victims compensation;
- provide a trauma-informed approach in forensic medical care; and
- provide other items listed in the bill.

Forensic medical exam. A SAFE program would have to provide a sexual assault survivor under the program's care a forensic medical exam in accordance with requirements under state law.

Only a sexual assault examiner or a sexual assault nurse examiner could perform a forensic medical exam under a SAFE program.

A survivor who received an exam under a SAFE program would not have to participate in the investigation or prosecution of an offense as a prerequisite to receiving the exam or medical treatment or pay for the

costs of the forensic portion of the exam or for the evidence collection kit.

Other provisions. The bill would revise processes relating to the request for a forensic medical exam by a law enforcement agency if a sexual assault was not reported to the agency within 120 hours. If the victim was a minor, a law enforcement agency would have to request an exam for use in the investigation or prosecution of the offense.

If the victim was not a minor, a law enforcement agency could request an exam if the agency believed it would further investigation or prosecution or if after an evaluation by a medical provider the agency was notified that an exam should be conducted.

A law enforcement agency would have to document whether a forensic medical exam was requested and provide certain information specified in the bill.

Payment of costs of exam. A health care provider that provided an exam to a survivor would be entitled to reimbursement in an amount set by the attorney general for the reasonable costs of the forensic portion of the exam and the evidence collection kit. The provider would not be eligible unless the exam was conducted by a sexual assault examiner or a sexual assault nurse examiner.

An application for reimbursement would have to include certain information, including an itemized bill of the costs of the forensic portion of the exam.

The health care provider would have to accept reimbursement from the attorney general unless the provider provided documentation to support a request for additional reimbursement and the attorney general determined there was justification for the additional amount.

The bill would expand the list of providers eligible for reimbursement from the attorney general to include a SAFE program.

Statewide electronic tracking system. The bill would require the statewide electronic tracking system for evidence of sexual assault or another sex offense to include the evidence collected in relation to a sexual assault or other sex offense, regardless of whether the evidence was collected in relation to an individual who was alive or deceased.

An entity that performed a forensic medical exam and received written consent to release the evidence would have to enter the identification number of the evidence collection kit into the statewide electronic tracking system within 24 hours after the exam was performed.

The Department of Public Safety (DPS) would have to report to the governor by October 1 of each year on the number of evidence collection kits that had not yet been submitted for lab analysis or for which the analysis had not yet been completed. The report would be titled the “Statewide Electronic Tracking System Report,” and would be posted on DPS' website.

The bill would take effect September 1, 2021, and would apply only to evidence of a sexual assault or other sex offense collected on or after that date.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of \$12.5 million to the Compensation to Victims of Crime Account through fiscal 2023.