

BILL ANALYSIS

Senate Research Center

H.B. 281
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current statute, survivors of rape and sexual assault may be notified of the status and analysis of their rape/sexual assault evidence kits if that information is requested (Section 56.021, Code of Criminal Procedure). However, survivors have difficulty acquiring the information to which they are entitled due to a growing backlog of untested kits and the limited staff capacity of law enforcement agencies.

H.B. 281 ensures that survivors have access to the status of their evidence and helps law enforcement agencies adhere to this statutory requirement by creating a statewide electronic tracking system of sexual assault evidence kits.

H.B. 281 requires the Texas Department of Public Safety (DPS) to develop and implement, by September 1, 2019, a tracking system for the location and status of each item of evidence (from the initial collection of the evidence), the receipt and storage of the evidence for medical examination, the receipt and analysis of the evidence at a law enforcement agency and crime laboratory, and the storage and destruction of the evidence after analysis. The tracking system must allow the survivors to anonymously track or receive updates on that information. DPS shall require participation in the tracking system by any facility or entity that collects evidence or investigates an offense.

H.B. 281 states that records entered into the tracking system are confidential except to the survivor and employees of the facility/entity participating in the tracking system. An employee of DPS or a facility/entity participating in the tracking system may not release information to a parent or legal guardian of a survivor if the parent or legal guardian is known to be a suspect in the offense. The records are not subject to disclosure under the Texas Public Information Act.

DPS may accept gifts, grants, or donations from any person or entity to assist in establishing and maintaining the tracking system.

H.B. 281 amends current law relating to establishing a statewide electronic tracking system for evidence of a sex offense.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Subchapter B, Chapter 420, Government Code, to read as follows:

SUBCHAPTER B. COLLECTION, PRESERVATION, AND TRACKING OF EVIDENCE OF
SEX OFFENSE

SECTION 2. Amends Subchapter B, Chapter 420, Government Code, by adding Section 420.034, as follows:

Sec. 420.034. STATEWIDE ELECTRONIC TRACKING SYSTEM. (a) Defines "evidence."

(b) Requires the Texas Department of Public Safety (DPS) to develop and implement a statewide electronic tracking system for evidence collected in relation to a sexual assault or other sex offense.

(c) Requires the tracking system to:

(1) track the location and status of each item of evidence through the criminal justice process, including the initial collection of the item of evidence in a forensic medical examination, receipt and storage of the item of evidence at a law enforcement agency, receipt and analysis of the item of evidence at an accredited crime laboratory, and storage and destruction of the item of evidence after the item is analyzed;

(2) allow a facility or entity performing a forensic medical examination of a survivor, law enforcement agency, accredited crime laboratory, prosecutor, or other entity providing a chain of custody for an item of evidence to update and track the status and location of the item; and

(3) allow a survivor to anonymously track or receive updates regarding the status and location of each item of evidence collected in relation to the offense.

(d) Requires DPS to require participation in the tracking system by any facility or entity that collects evidence of a sexual assault or other sex offense or investigates or prosecutes a sexual assault or other sex offense for which evidence has been collected.

(e) Provides that records entered into the tracking system are confidential and are not subject to disclosure under Chapter 552 (Public Information), Government Code. Authorizes records relating to evidence tracked under the system to be accessed only by the survivor from whom the evidence was collected or an employee of a facility or entity described by Subsection (d), for purposes of updating or tracking the status or location of an item of evidence.

(f) Prohibits an employee of DPS or a facility or entity described by Subsection (d) from disclosing to a parent or legal guardian of a survivor information that would aid the parent or legal guardian in accessing records relating to evidence tracked under the system if the employee knows or has reason to believe that the parent or legal guardian is a suspect or a suspected accomplice in the commission of the offense with respect to which evidence was collected.

(g) Authorizes DPS, to assist in establishing and maintaining the statewide electronic tracking system under this section, to accept gifts, grants, or donations from any person or entity.

SECTION 3. (a) Requires DPS, not later than September 1, 2019, to require all facilities and entities described by Section 420.034(d), Government Code, as added by this Act, to participate in the statewide electronic tracking system established under that section.

(b) Provides that Section 420.034, Government Code, as added by this Act, applies only to evidence collected on or after the date on which a facility or entity is first required under Subsection (a) of this section to participate in the statewide electronic tracking system. Provides that evidence collected before that date is not required to be tracked under the tracking system.

SECTION 4. Effective date: September 1, 2017.