

1-1 By: Howard, et al. (Senate Sponsor - Nelson) H.B. No. 2706
1-2 (In the Senate - Received from the House May 3, 2021;
1-3 May 20, 2021, read first time and referred to Committee on
1-4 Jurisprudence; May 22, 2021, reported favorably by the following
1-5 vote: Yeas 3, Nays 0; May 22, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11			X	
1-12			X	

1-13 A BILL TO BE ENTITLED
1-14 AN ACT

1-15 relating to the emergency services and care provided to victims of
1-16 sexual assault and other sex offenses and to the processes
1-17 associated with preserving and analyzing the evidence of those
1-18 offenses.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Chapter 38, Code of Criminal Procedure, is
1-21 amended by adding Article 38.435 to read as follows:

1-22 Art. 38.435. PROHIBITED USE OF EVIDENCE FROM FORENSIC
1-23 MEDICAL EXAMINATION PERFORMED ON VICTIM OF SEXUAL ASSAULT.
1-24 Evidence collected during a forensic medical examination conducted
1-25 under Subchapter F or G, Chapter 56A, may not be used to investigate
1-26 or prosecute a misdemeanor offense, or an offense under Subchapter
1-27 D, Chapter 481, Health and Safety Code, alleged to have been
1-28 committed by the victim from whom the evidence was collected.

1-29 SECTION 2. Article 56A.252, Code of Criminal Procedure, is
1-30 amended to conform to Sections 3 and 8, Chapter 1037 (H.B. 616),
1-31 Acts of the 86th Legislature, Regular Session, 2019, and is further
1-32 amended to read as follows:

1-33 Art. 56A.252. PAYMENT OF COSTS OF EXAMINATION. (a) ~~[A law~~
1-34 ~~enforcement agency that requests a forensic medical examination~~
1-35 ~~under Article 56A.251 shall pay all costs of the examination.]~~ On
1-36 application to the attorney general, a health care provider that
1-37 provides a forensic medical examination to a sexual assault
1-38 survivor in accordance with this subchapter, or the ~~[law~~
1-39 ~~enforcement agency is entitled to be reimbursed for the reasonable~~
1-40 ~~costs of the examination if the examination was performed by a~~
1-41 ~~physician or by a]~~ sexual assault examiner or sexual assault nurse
1-42 examiner who conducts the examination, as applicable, is entitled
1-43 to be reimbursed in an amount set by attorney general rule for:

1-44 (1) the reasonable costs of the forensic portion of
1-45 that examination; and

1-46 (2) the evidence collection kit [defined by Section
1-47 420.003, Government Code].

1-48 (b) The application under Subsection (a) must be in the form
1-49 and manner prescribed by the attorney general and must include:

1-50 (1) the documentation of the law enforcement agency's
1-51 request for the forensic medical examination, as required under
1-52 Article 56A.251(d); and

1-53 (2) a complete and itemized bill of the reasonable
1-54 costs of the forensic portion of the examination.

1-55 (c) A health care provider or a sexual assault examiner or
1-56 sexual assault nurse examiner, as applicable, who applies for
1-57 reimbursement under Subsection (a) shall accept reimbursement from
1-58 the attorney general as payment for the costs unless:

1-59 (1) the health care provider or sexual assault
1-60 examiner or sexual assault nurse examiner, as applicable:

1-61 (A) requests, in writing, additional

2-1 reimbursement from the attorney general; and
 2-2 (B) provides documentation in support of the
 2-3 additional reimbursement, as reasonably requested by the attorney
 2-4 general; and

2-5 (2) the attorney general determines that there is a
 2-6 reasonable justification for additional reimbursement.

2-7 (d) A health care provider is not entitled to reimbursement
 2-8 under this article unless the forensic medical examination is
 2-9 conducted on the premises of the provider by a sexual assault
 2-10 examiner or sexual assault nurse examiner.

2-11 (e) On request, the attorney general may provide training to
 2-12 a health care provider regarding the process for applying for
 2-13 reimbursement under this article.

2-14 SECTION 3. Article 56A.254, Code of Criminal Procedure, is
 2-15 amended to read as follows:

2-16 Art. 56A.254. PAYMENT OF COSTS FOR CERTAIN MEDICAL CARE.
 2-17 The attorney general may make a payment to or on behalf of an
 2-18 individual for the reasonable costs incurred for medical care
 2-19 provided in accordance with Sections ~~[Section]~~ 323.004, 323.053,
 2-20 and 323.054, Health and Safety Code.

2-21 SECTION 4. Article 56A.302, Code of Criminal Procedure, is
 2-22 amended to read as follows:

2-23 Art. 56A.302. APPLICABILITY. This subchapter applies to
 2-24 the following health care providers ~~[facilities]~~ that provide
 2-25 diagnosis or treatment services to victims of sexual assault:

2-26 (1) a general or special hospital licensed under
 2-27 Chapter 241, Health and Safety Code;

2-28 (2) a general or special hospital owned by this state;

2-29 (3) an outpatient clinic; ~~and~~

2-30 (4) a private physician's office; and

2-31 (5) a SAFE program as defined by Section 323.051,
 2-32 Health and Safety Code.

2-33 SECTION 5. Article 56A.303, Code of Criminal Procedure, is
 2-34 amended to conform to Section 4, Chapter 1037 (H.B. 616), Acts of
 2-35 the 86th Legislature, Regular Session, 2019, and is further amended
 2-36 to read as follows:

2-37 Art. 56A.303. FORENSIC MEDICAL EXAMINATION. (a) In
 2-38 accordance with Subchapter B, Chapter 420, Government Code, and
 2-39 except as provided by Subsection (b), a health care provider
 2-40 ~~[facility]~~ shall conduct a forensic medical examination of a victim
 2-41 of a ~~[an alleged]~~ sexual assault if:

2-42 (1) the victim arrives at the provider ~~[facility]~~
 2-43 within 120 ~~[96]~~ hours after the assault occurred;

2-44 (2) the victim consents to the examination; and

2-45 (3) at the time of the examination the victim has not
 2-46 reported the assault to a law enforcement agency.

2-47 (b) If a health care provider ~~[facility]~~ does not provide
 2-48 diagnosis or treatment services to victims of sexual assault, the
 2-49 provider ~~[facility]~~ shall refer a victim of a ~~[an alleged]~~ sexual
 2-50 assault who seeks a forensic medical examination under Subsection
 2-51 (a) to a health care provider ~~[facility]~~ that provides services to
 2-52 those victims.

2-53 (c) A victim of a ~~[an alleged]~~ sexual assault may not be
 2-54 required to participate in the investigation or prosecution of an
 2-55 offense as a condition of receiving a forensic medical examination
 2-56 under this article.

2-57 SECTION 6. Article 56A.304, Code of Criminal Procedure, is
 2-58 amended to conform to Sections 4 and 8, Chapter 1037 (H.B. 616),
 2-59 Acts of the 86th Legislature, Regular Session, 2019, and is further
 2-60 amended to read as follows:

2-61 Art. 56A.304. PAYMENT OF FEES RELATED TO EXAMINATION. (a)
 2-62 On application to the ~~[The department shall pay the appropriate~~
 2-63 ~~fees, as set by]~~ attorney general ~~[rule]~~, a health care provider
 2-64 that provides ~~[for the forensic portion of]~~ a forensic medical
 2-65 examination to a sexual assault survivor in accordance with this
 2-66 subchapter, or the ~~[conducted under Article 56A.303(a) and for the~~
 2-67 ~~evidence collection kit if a physician,]~~ sexual assault examiner
 2-68 ~~[7]~~ or sexual assault nurse examiner who conducts that ~~[the~~
 2-69 ~~forensic portion of the]~~ examination, as applicable, within 120

3-1 [96] hours after the [alleged] sexual assault occurred is entitled
 3-2 to be reimbursed in an amount set by attorney general rule for:

3-3 (1) the reasonable costs of the forensic portion of
 3-4 that examination; and

3-5 (2) the evidence collection kit.

3-6 (b) The application under Subsection (a) must be in the form
 3-7 and manner prescribed by the attorney general and must include:

3-8 (1) certification that the examination was conducted
 3-9 in accordance with the requirements of Article 56A.303(a); and

3-10 (2) a complete and itemized bill of the reasonable
 3-11 costs of the forensic portion of the examination [attorney general
 3-12 shall reimburse the department for fees paid under Subsection (a)].

3-13 (c) A health care provider or a sexual assault examiner or
 3-14 sexual assault nurse examiner, as applicable, who applies for
 3-15 reimbursement under Subsection (a) shall accept reimbursement from
 3-16 the attorney general as payment for the costs unless:

3-17 (1) the health care provider or sexual assault
 3-18 examiner or sexual assault nurse examiner, as applicable:

3-19 (A) requests, in writing, additional
 3-20 reimbursement from the attorney general; and

3-21 (B) provides documentation in support of the
 3-22 additional reimbursement, as reasonably requested by the attorney
 3-23 general; and

3-24 (2) the attorney general determines that there is a
 3-25 reasonable justification for additional reimbursement.

3-26 (d) A health care provider is not entitled to reimbursement
 3-27 under this article unless the forensic medical examination was
 3-28 conducted on the premises of the provider by a sexual assault
 3-29 examiner or sexual assault nurse examiner.

3-30 (e) On request, the attorney general may provide training to
 3-31 a health care provider regarding the process for applying for
 3-32 reimbursement under this article.

3-33 (f) A victim of a [an alleged] sexual assault may not be
 3-34 required to pay for:

3-35 (1) the forensic portion of the forensic medical
 3-36 examination; or

3-37 (2) the evidence collection kit.

3-38 SECTION 7. Article 56A.305, Code of Criminal Procedure, is
 3-39 amended to read as follows:

3-40 Art. 56A.305. PAYMENT OF COSTS FOR CERTAIN MEDICAL CARE.
 3-41 The attorney general may make a payment to or on behalf of an
 3-42 individual for the reasonable costs incurred for medical care
 3-43 provided in accordance with Sections [Section] 323.004, 323.053,
 3-44 and 323.054, Health and Safety Code.

3-45 SECTION 8. Section 420.003(1-a), Government Code, is
 3-46 amended to read as follows:

3-47 (1-a) "Active criminal case" means a case:

3-48 (A) in which:

3-49 (i) a sexual assault or other sex offense
 3-50 has been reported to a law enforcement agency; ~~and~~

3-51 (ii) physical evidence of the offense has
 3-52 been submitted to the agency or an accredited crime laboratory
 3-53 under this chapter for analysis; and

3-54 (iii) the agency documents that an offense
 3-55 has been committed and reported; and

3-56 (B) for which:

3-57 (i) the statute of limitations has not run
 3-58 with respect to the prosecution of the offense; or

3-59 (ii) a DNA profile was obtained that is
 3-60 eligible under Section 420.043 for comparison with DNA profiles in
 3-61 the state database or CODIS DNA database.

3-62 SECTION 9. The heading to Chapter 323, Health and Safety
 3-63 Code, is amended to read as follows:

3-64 CHAPTER 323. EMERGENCY SERVICES AND FORENSIC EXAMINATION PROGRAMS
 3-65 FOR SURVIVORS OF SEXUAL ASSAULT

3-66 SECTION 10. Chapter 323, Health and Safety Code, is amended
 3-67 by designating Sections 323.001 through 323.008 as Subchapter A and
 3-68 adding a subchapter heading to read as follows:

SUBCHAPTER A. EMERGENCY SERVICES FOR SURVIVORS
OF SEXUAL ASSAULT

SECTION 11. Section 323.001, Health and Safety Code, is amended to read as follows:

Sec. 323.001. DEFINITIONS. In this subchapter [~~chapter~~]:

(1) "Commission" means the Health and Human Services Commission.

(2) "Department" means the Department of State Health Services.

(3) "Health care facility" means a general or special hospital licensed under Chapter 241, a general or special hospital owned by this state, or a freestanding emergency medical care facility licensed under Chapter 254.

(3-a) "SAFE-ready facility" means a health care facility designated as a sexual assault forensic exam-ready facility under Section 323.0015. The term includes a SAFE program designated as a SAFE-ready facility under Section 323.052.

(3-b) "SAFE program" has the meaning assigned by Section 323.051.

(4) "Sexual assault" means any act as described by Section 22.011 or 22.021, Penal Code.

(4-a) "Sexual assault forensic examiner" means a certified sexual assault nurse examiner or a physician with specialized training on conducting a forensic medical examination.

(5) "Sexual assault survivor" means an individual who is a victim of a sexual assault, regardless of whether a report is made or a conviction is obtained in the incident.

SECTION 12. Sections 323.004(a), (a-1), and (b), Health and Safety Code, are amended to read as follows:

(a) Except as otherwise provided by Subsection (a-2), after a sexual assault survivor arrives at a health care facility following a [~~an alleged~~] sexual assault, the facility shall provide care to the survivor in accordance with Subsection (b).

(a-1) A facility that is not a SAFE-ready facility shall inform the sexual assault survivor that:

(1) the facility is not a SAFE-ready facility and provide to the survivor the name and location of nearby [~~the closest~~] SAFE-ready facilities [~~facility~~] and the information form required by Section 323.0051; and

(2) the survivor is entitled, at the survivor's option:

(A) to receive the care described by Subsection (b) at that facility, subject to Subsection (b-1); or

(B) to be stabilized and to be referred or transferred to and receive the care described by Subsection (b) at a SAFE-ready facility.

(b) A health care facility providing care to a sexual assault survivor shall provide the survivor with:

(1) subject to Subsection (b-1), a forensic medical examination in accordance with Subchapter B, Chapter 420, Government Code, if the examination has been requested by a law enforcement agency under Subchapter F, Chapter 56A, Code of Criminal Procedure, or is conducted under Subchapter G, Chapter 56A, Code of Criminal Procedure;

(2) a private area, if available, to wait or speak with the appropriate medical, legal, or sexual assault crisis center staff or volunteer until a physician, nurse, or physician assistant is able to treat the survivor;

(3) access to a sexual assault program advocate, if available, as provided by Subchapter H, Chapter 56A, Code of Criminal Procedure;

(4) the information form required by Section 323.005;

(5) a private treatment room, if available;

(6) if indicated by the history of contact, access to appropriate prophylaxis for exposure to sexually transmitted infections; [~~and~~]

(7) the name and telephone number of the nearest sexual assault crisis center; and

(8) if the health care facility has shower facilities,

5-1 access to a shower at no cost to the survivor after the examination
 5-2 described by Subdivision (1).

5-3 SECTION 13. Section 323.005(a), Health and Safety Code, as
 5-4 amended by Chapters 408 (H.B. 8), 469 (H.B. 4173), and 1037 (H.B.
 5-5 616), Acts of the 86th Legislature, Regular Session, 2019, is
 5-6 reenacted and further amended to conform to Chapter 469 (H.B.
 5-7 4173), Acts of the 86th Legislature, Regular Session, 2019, to read
 5-8 as follows:

5-9 (a) The commission [~~department~~] shall develop a standard
 5-10 information form for sexual assault survivors that must include:

5-11 (1) a detailed explanation of the forensic medical
 5-12 examination required to be provided by law, including a statement
 5-13 that photographs may be taken of the genitalia;

5-14 (2) information regarding treatment of sexually
 5-15 transmitted infections and pregnancy, including:

5-16 (A) generally accepted medical procedures;

5-17 (B) appropriate medications; and

5-18 (C) any contraindications of the medications
 5-19 prescribed for treating sexually transmitted infections and
 5-20 preventing pregnancy;

5-21 (3) information regarding drug-facilitated sexual
 5-22 assault, including the necessity for an immediate urine test for
 5-23 sexual assault survivors who may have been involuntarily drugged;

5-24 (4) information regarding crime victims compensation,
 5-25 including:

5-26 (A) a statement that public agencies are
 5-27 responsible for paying for the forensic portion of an examination
 5-28 conducted under Subchapter F or G, Chapter 56A [~~Article 56.06 or~~
 5-29 ~~56.065~~], Code of Criminal Procedure, and for the evidence
 5-30 collection kit used in connection with the examination and that the
 5-31 health care facility or provider, as applicable, is responsible for
 5-32 seeking reimbursement for those costs; and

5-33 (B) information regarding the reimbursement of
 5-34 the survivor for the medical portion of the examination;

5-35 (5) an explanation that consent for the forensic
 5-36 medical examination may be withdrawn at any time during the
 5-37 examination;

5-38 (6) the name and telephone number of sexual assault
 5-39 crisis centers statewide; [~~and~~]

5-40 (7) information regarding postexposure prophylaxis
 5-41 for HIV infection;

5-42 (8) information regarding the period for which
 5-43 biological evidence collected from the forensic medical
 5-44 examination will be retained and preserved under Article 38.43,
 5-45 Code of Criminal Procedure; and

5-46 (9) a statement that the survivor has the right to
 5-47 access a shower for free after the forensic medical examination, if
 5-48 shower facilities are available at the health care facility.

5-49 SECTION 14. Section 323.0051(a), Health and Safety Code, is
 5-50 amended to read as follows:

5-51 (a) The commission [~~department~~] shall develop a standard
 5-52 information form for sexual assault survivors who arrive at a
 5-53 health care facility that is not a SAFE-ready facility. The
 5-54 information form must include:

5-55 (1) information regarding the benefits of a forensic
 5-56 medical examination conducted by a sexual assault forensic
 5-57 examiner;

5-58 (2) the Internet website address to the commission's
 5-59 [~~department's~~] list of SAFE-ready facilities that includes the
 5-60 facilities' physical addresses as required by Section 323.008;

5-61 (3) the following statements:

5-62 (A) "As a survivor of sexual assault, you have
 5-63 the right to receive a forensic medical examination at this
 5-64 hospital emergency room if you are requesting the examination not
 5-65 later than 120 hours after the assault.";

5-66 (B) "A report to law enforcement is not required,
 5-67 but if you make a report, law enforcement must first authorize the
 5-68 examination."; and

5-69 (C) "Call 1-800-656-HOPE to be connected to a

6-1 rape crisis center for free and confidential assistance."; and
 6-2 (4) information on the procedure for submitting a
 6-3 complaint against the health care facility.

6-4 SECTION 15. Section 323.0052(a), Health and Safety Code, is
 6-5 amended to conform to Chapter 469 (H.B. 4173), Acts of the 86th
 6-6 Legislature, Regular Session, 2019, and further amended to read as
 6-7 follows:

6-8 (a) The commission [~~department~~] shall develop a standard
 6-9 information form that, as described by Subsection (b), is to be
 6-10 provided to sexual assault survivors who have not given signed,
 6-11 written consent to a health care facility to release the evidence as
 6-12 provided by Section 420.0735, Government Code. The form must
 6-13 include the following information:

6-14 (1) the Department of Public Safety's policy regarding
 6-15 storage of evidence of a sexual assault or other sex offense that is
 6-16 collected under Subchapter G, Chapter 56A [~~Article 56.065~~], Code of
 6-17 Criminal Procedure, including:

6-18 (A) a statement that the evidence will be stored
 6-19 until the fifth anniversary of the date on which the evidence was
 6-20 collected before the evidence becomes eligible for destruction; and

6-21 (B) the department's procedures regarding the
 6-22 notification of the survivor before a planned destruction of the
 6-23 evidence;

6-24 (2) a statement that the survivor may request the
 6-25 release of the evidence to a law enforcement agency and report a
 6-26 sexual assault or other sex offense to the agency at any time;

6-27 (3) the name, phone number, and e-mail address of the
 6-28 law enforcement agency with jurisdiction over the offense; and

6-29 (4) the name and phone number of a local rape crisis
 6-30 center.

6-31 SECTION 16. Section 323.008, Health and Safety Code, is
 6-32 amended to read as follows:

6-33 Sec. 323.008. DATA PUBLICATION. The commission
 6-34 [~~department~~] shall post on the commission's [~~department's~~] Internet
 6-35 website a list of all hospitals and other health facilities that are
 6-36 designated as SAFE-ready facilities under this chapter and the
 6-37 facilities' physical addresses. The commission [~~department~~] shall
 6-38 update the list quarterly [~~annually~~]. To the extent possible, the
 6-39 commission [~~department~~] shall collect the data required by this
 6-40 section as part of a survey required by the commission [~~department~~]
 6-41 under other law.

6-42 SECTION 17. Chapter 323, Health and Safety Code, is amended
 6-43 by adding Subchapter B to read as follows:

6-44 SUBCHAPTER B. SEXUAL ASSAULT FORENSIC EXAMINATION PROGRAMS

6-45 Sec. 323.051. DEFINITIONS. In this subchapter:

6-46 (1) "SAFE program" means a program that meets the
 6-47 requirements prescribed by Section 323.052. The term does not
 6-48 include a program operated by a health care facility, as defined by
 6-49 Section 323.001.

6-50 (2) "Sexual assault examiner," "sexual assault nurse
 6-51 examiner," and "sexual assault program" have the meanings assigned
 6-52 by Section 420.003, Government Code.

6-53 (3) "Sexual assault forensic examiner" means a
 6-54 certified sexual assault nurse examiner or a physician licensed
 6-55 under Subtitle B, Title 3, Occupations Code, with specialized
 6-56 training on conducting a forensic medical examination.

6-57 Sec. 323.052. OPERATION OF SAFE PROGRAM; DESIGNATION OF
 6-58 SAFE PROGRAM AS SAFE-READY FACILITY. (a) A person may operate a
 6-59 SAFE program only if:

6-60 (1) the program meets the minimum standards
 6-61 established under Section 323.053; and

6-62 (2) the program provides forensic medical
 6-63 examinations to sexual assault survivors in accordance with Section
 6-64 323.054.

6-65 (b) The Health and Human Services Commission shall
 6-66 designate a SAFE program described by Subsection (a) as a
 6-67 SAFE-ready facility under Section 323.0015 if the program notifies
 6-68 the commission that the program employs or contracts with a sexual
 6-69 assault forensic examiner or uses a telemedicine system of sexual

7-1 assault forensic examiners to provide consultation during a sexual
 7-2 assault forensic medical examination to a nurse or physician
 7-3 licensed to practice in this state.
 7-4 Sec. 323.053. MINIMUM STANDARDS FOR SAFE PROGRAMS. A SAFE
 7-5 program must:
 7-6 (1) operate under the active oversight of a medical
 7-7 director who is a physician licensed by and in good standing with
 7-8 the Texas Medical Board;
 7-9 (2) provide medical treatment under a physician's
 7-10 order, standing medical order, standing delegation order, or other
 7-11 order or protocol as defined by Texas Medical Board rules;
 7-12 (3) employ or contract with a sexual assault examiner
 7-13 or a sexual assault nurse examiner;
 7-14 (4) provide access to a sexual assault program
 7-15 advocate, as required by Subchapter H, Chapter 56A, Code of
 7-16 Criminal Procedure;
 7-17 (5) ensure a sexual assault survivor has access to a
 7-18 private treatment room;
 7-19 (6) if indicated by a survivor's history or on a
 7-20 survivor's request, provide:
 7-21 (A) HIV testing and prophylactic medication to
 7-22 the survivor or a referral for the testing and medication; and
 7-23 (B) counseling and prophylactic medications for
 7-24 exposure to sexually transmitted infections and pregnancy;
 7-25 (7) provide to survivors the name and telephone number
 7-26 of a nearby sexual assault program that provides to survivors the
 7-27 minimum services described by Subchapter A, Chapter 420, Government
 7-28 Code;
 7-29 (8) provide to survivors the information form required
 7-30 by Section 323.005, 323.0051, or 323.0052, as applicable, and
 7-31 orally communicate the information regarding crime victims
 7-32 compensation under Section 323.005(a)(4);
 7-33 (9) collaborate with any sexual assault program, as
 7-34 defined by Section 420.003, Government Code, that provides services
 7-35 to survivors in the county;
 7-36 (10) engage in efforts to improve the quality of the
 7-37 program;
 7-38 (11) maintain capacity for appropriate triage or have
 7-39 agreements with other health facilities to assure that a survivor
 7-40 receives the appropriate level of care indicated for the survivor's
 7-41 medical and mental health needs;
 7-42 (12) prioritize the safety and well-being of
 7-43 survivors;
 7-44 (13) provide a trauma-informed approach in the
 7-45 forensic medical care provided to survivors; and
 7-46 (14) collaborate with:
 7-47 (A) law enforcement agencies and attorneys
 7-48 representing the state with jurisdiction in the county;
 7-49 (B) any available local sexual assault response
 7-50 team; and
 7-51 (C) other interested persons in the community.
 7-52 Sec. 323.054. FORENSIC MEDICAL EXAMINATION BY SAFE PROGRAM;
 7-53 INFORMED CONSENT. (a) A SAFE program shall provide to a sexual
 7-54 assault survivor under the care of the program a forensic medical
 7-55 examination in accordance with Subchapter B, Chapter 420,
 7-56 Government Code, if the examination has been requested by a law
 7-57 enforcement agency under Subchapter F, Chapter 56A, Code of
 7-58 Criminal Procedure, or if the examination is performed in
 7-59 accordance with Subchapter G, Chapter 56A, Code of Criminal
 7-60 Procedure.
 7-61 (b) Only a sexual assault examiner or a sexual assault nurse
 7-62 examiner may perform a forensic medical examination under a SAFE
 7-63 program.
 7-64 (c) A sexual assault examiner or sexual assault nurse
 7-65 examiner employed by or under contract with a SAFE program must
 7-66 obtain a sexual assault survivor's informed, written consent before
 7-67 performing a forensic medical examination or providing medical
 7-68 treatment to the survivor.
 7-69 (d) A sexual assault survivor who receives a forensic

8-1 medical examination from a sexual assault examiner or sexual
8-2 assault nurse examiner employed by or under contract with a SAFE
8-3 program may not be required to:

8-4 (1) participate in the investigation or prosecution of
8-5 an offense as a prerequisite to receiving the forensic medical
8-6 examination or medical treatment; or

8-7 (2) pay for the costs of the forensic portion of the
8-8 forensic medical examination or for the evidence collection kit.

8-9 SECTION 18. Article 38.435, Code of Criminal Procedure, and
8-10 Section 323.004(b)(8), Health and Safety Code, as added by this
8-11 Act, apply to a forensic medical examination that occurs on or after
8-12 the effective date of this Act. A forensic medical examination that
8-13 occurs before that date is governed by the law in effect on the date
8-14 the examination occurred, and the former law is continued in effect
8-15 for that purpose.

8-16 SECTION 19. To the extent of any conflict, this Act prevails
8-17 over another Act of the 87th Legislature, Regular Session, 2021,
8-18 relating to nonsubstantive additions to and corrections in enacted
8-19 codes.

8-20 SECTION 20. This Act takes effect September 1, 2021.

8-21

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