

- SUBJECT:** Requiring forensic medical examinations of sexual assault victims
- COMMITTEE:** Law Enforcement — committee substitute recommended
- VOTE:** 7 ayes — Driver, Jackson, Burnam, Frost, Hegar, Hupp, Veasey
0 nays
- WITNESSES:** For — Torie Camp, Texas Association Against Sexual Assault; Cari Foote, Highland Lakes Family Crisis Center; Tom Gaylor, Texas Municipal Police Association; William Hubbarth, Justice For All; Hannah Riddering, Texas National Organization for Women.

Against — None
- BACKGROUND:** After a sexual assault is reported, most victims undergo a forensic examination. The purpose of the exam is to collect and document physical evidence that may prove a sexual assault occurred, such as hair or DNA samples from sperm or saliva or any apparent injuries to the alleged victim. Law enforcement agencies take the victim to a medical professional, who performs the exam. If the exam takes place more than 96 hours after a sexual assault, physical evidence may no longer be available or may be unusable. About 7,986 rapes were reported in Texas in 2003.

The average cost of a forensic examination is about \$350, although it may vary depending on medical and legal factors. Police departments may apply for reimbursement of the cost of forensic exams from the state Crime Victims Compensation Fund (CVCF).

Under current law, law enforcement officers are not required to request that victims who report a sexual assault be given a forensic medical examination.
- DIGEST:** CSHB 544 would amend the Code of Criminal Procedure to require that law enforcement officials request that victims of sexual assault be given a forensic medical examination if the report occurred within 96 hours of the assault. If the victim did not report the assault within 96 hours, law enforcement could request an exam as they considered appropriate. The

exam would have to be with the consent of the victim and would be added to the list of victims' rights in the Code.

Law enforcement officials could choose not to request an exam only if the person reporting the assault had made one or more false reports and there was no other evidence to corroborate the sexual assault report.

The bill would apply to sexual assaults reported on or after September 1, 2005.

**SUPPORTERS
SAY:**

A forensic medical examination is a necessary means of collecting evidence in a sexual assault case. Such evidence helps to ensure a more effective and accurate investigation and prosecution of a sexual assault. However, if certain physical evidence is not collected within 96 hours after the assault, it could be lost, CSHB 544 would require that law enforcement request a forensic exam while the evidence was still available.

Most police departments will request that an exam be given to a victim who asks for it, but a small percentage of officers refuse because they do not believe the victim. A victim sometimes cannot recall all the details of the crime or will explain them inconsistently because of post-traumatic stress. Other departments may not request that an exam be given because the exams are expensive and police departments are unaware that they can be reimbursed by the CVCF. In smaller rural areas, law enforcement may not know that an exam is available.

Requiring police departments to request an exam would ensure that important evidence that could lead to prosecution is not neglected. Law enforcement would not be able to refuse to request that examinations be given to those that requested them due to their own prejudice, and the bill would ensure that all law enforcement was aware of the procedure.

The bill would not increase costs for police departments because the departments could be reimbursed by the Attorney General's Office through the Crime Victim's Compensation Fund. Obtaining a reimbursement from the CVCF is a relatively smooth process.

**OPPONENTS
SAY:**

CSHB 544 is unnecessary because under current law most police departments will request that an alleged victim be given a medical examination upon request.

The bill may end up costing localities money. Some police departments do not know they can be reimbursed from the CVCF. For those that do, it may not be worth filing for a reimbursement because the process can be so slow.

NOTES:

The committee substitute changed the original bill so that only a history of false reports, rather than "unsubstantiated" reports as in the original, by the victim would permit law enforcement to decline to request an examination if there were no other corroborating evidence.