

- SUBJECT:** Allowing direct reimbursement to providers for sexual assault kit exams
- COMMITTEE:** Homeland Security and Public Safety — committee substitute recommended
- VOTE:** 9 ayes — Nevárez, Paul, Burns, Calanni, Clardy, Goodwin, Israel, Lang, Tinderholt
0 nays
- WITNESSES:** For — Sophie Jerwick, Rhea Shahane, and Tatum Zeko, Deeds Not Words; Jenny Black, SAFE Alliance; Katherine Strandberg, Texas Association Against Sexual Assault; Bertha Lavinia Masters; (*Registered, but did not testify*: Olivia Ott, Austin Justice Coalition; Christina Green, Children's Advocacy Centers of Texas, Inc.; Rita Ostrander, Combined Law Enforcement Associations of Texas; Charles Reed, Dallas County Commissioners Court; Terrence Rhodes, Dallas Police Department; Jessica Anderson, Houston Police Department; Blake Rocop and Jasmine Wang, NARAL Pro-Choice Texas; Will Francis, National Association of Social Workers-Texas Chapter; Ana DeFrates, Survivor Justice Project; Vincent Giardino, Tarrant County Criminal District Attorney's Office; Linda Phan, Texas Council on Family Violence; Joshua Houston, Texas Impact; Kyle Piccola, The Arc of Texas; Kirsha Haverlah; Emily Martin; Thomas Parkinson)

Against — None

On — Gene McCleskey, Office of Attorney General; Katherine Yoder, Parkland Health and Hospital System; (*Registered, but did not testify*: Michael Lesko, Texas Department of Public Safety; Lynn Garcia, Texas Forensic Science Commission)
- BACKGROUND:** Code of Criminal Procedure art. 56.06 requires a law enforcement agency that requests a forensic medical exam of the victim of an alleged sexual assault to pay all costs of the examination. On application to the attorney general, the law enforcement agency is entitled to be reimbursed for the

reasonable costs of the examination if the exam was performed by a physician, a sexual assault examiner, or a sexual assault nurse examiner. The attorney general pays for these reimbursements using the crime victims' compensation fund.

Some have suggested that streamlining the administrative process for reimbursing money spent to conduct forensic exams of sexual assault victims could result in fewer administrative burdens for law enforcement and a more efficient process for health care providers.

DIGEST:

CSHB 616 would establish a process for health care facilities, sexual assault examiners, and sexual assault nurse examiners to apply directly to the attorney general for reimbursement for costs associated with the forensic medical examination of a victim of an alleged sexual assault.

A health care facility that provided a forensic medical exam or the sexual assault examiner or sexual assault nurse examiner who conducted the exam 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 attorney general could use the Crime Victim's Compensation Fund for the reimbursement.

A health care facility would not be entitled to reimbursement under the bill unless the exam was conducted at the facility by a physician, sexual assault examiner, or sexual assault nurse examiner.

An application for reimbursement would have to be in the form and manner prescribed by the attorney general and include certain documentation and a complete and itemized bill of the costs of the forensic portion of the exam. If requested, the attorney general could provide training to a health care facility regarding the process for applying for reimbursement.

A health care provider would have to accept reimbursement from the attorney general as payment for the costs unless an investigation of the costs by the attorney general determined that there was a reasonable health

care justification for deviation.

The bill would extend the period during which a sexual assault offense had to be reported or, if the victim chose not to report the offense, during which the victim had to arrive at a health care facility to be entitled to a forensic medical exam from within 96 hours of the offense to within 120 hours. A law enforcement agency could decline an exam request if the assault was not reported within that period.

If a sexual assault was reported to a law enforcement agency at any time, regardless of whether it was reported within the 120 hour period, the agency would be required to document whether it requested a forensic medical exam and provide the documentation to the victim and the health care facility, sexual assault examiner, or sexual assault nurse examiner that provided services to the victim. The documentation would have to be maintained by the agency in accordance with the agency's record retention policies.

The bill would take effect September 1, 2019, and would apply to a forensic medical exam that occurred on or after that date.