

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 37
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Criminal Justice
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Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, law enforcement agencies are not required to request a forensic examination for victims who report an assault within a certain time period. Rape crisis centers throughout Texas describes many situations where a sexual assault victim reports the crime but a thorough investigation is not completed in a timely manner. The failure to believe a victim appears to be the most likely reason that law enforcement personnel fail to obtain a forensic examination.

A forensic examination is a highly technical exams used to collect evidence from a person's body. DNA evidence can be the most valuable evidence collected from the victim. However, when believability is at issue, damage to tissue, bruising, and other injuries can point to lack of consent. Forensic nurse examiners report that even with in 96 hours of the rape, important evidence can still be collected. C.S.S.B. 37 provides that a victim of an alleged sexual assault is entitled to a forensic medical examination if the alleged sexual assault was reported within 96 hours of its occurrence, and requires a law enforcement agency, with consent of the victim, a person authorized to act on behalf of the victim, or an employee of the Texas Department of Family and Protective Services, to request a medical examination of the victim of the alleged assault for use in the investigation or prosecution of the offense.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subsection (a), Article 56.02, Code of Criminal Procedure, to include among those rights to which a victim of a sexual assault is entitled, the right to a forensic medical examination if the sexual assault is reported to a law enforcement agency within 96 hours of the assault. Make nonsubstantive changes.

SECTION 2. Amends Article 56.06, Code of Criminal Procedure, as follows:

Art. 56.06. New heading: MEDICAL EXAMINATION FOR SEXUAL ASSAULT VICTIM; COSTS. (a) Requires a law enforcement agency, if a sexual assault is reported to the law enforcement agency within 96 hours of the assault, with consent of the victim, a person authorized to act on behalf of the victim, or an employee of the Texas Department of Family and Protective Services, to request a medical examination of the victim of the alleged assault for use in the investigation or prosecution of the offense. Authorizes a law enforcement agency to decline to request a medical examination under this subsection only if the person reporting the sexual assault has made one or more false reports of sexual assault to any law enforcement agency and if there is no other evidence to corroborate the current allegations of sexual assault.

(b) Authorizes the law enforcement agency, if a sexual assault is not reported within the period described by Subsection (a), on receiving the consent described by that subsection to request a medical examination of a victim of an alleged sexual assault as considered appropriate by the agency.

(c) through (e) Redesignated from existing Subsections (a), (b), and (c).

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2005.