

**SUBJECT:** Revising compliance, tracking requirements for sexual assault evidence

**COMMITTEE:** Homeland Security and Public Safety — committee substitute recommended

**VOTE:** 9 ayes — White, Bowers, Goodwin, Harless, Hefner, E. Morales, Patterson, Schaefer, Tinderholt

0 nays

**WITNESSES:** For — Amy Derrick, Dallas County Criminal District Attorney; Bertha Lavinia Masters, TAASA Sexual Assault Advisory Board; (*Registered, but did not testify*: Frederick Frazier, Dallas Police Association and State FOP; Stephanie Arthur, Everytown for Gun Safety and Moms Demand Action; Noel Johnson, JPCA; Carlos Lopez, Justices of the Peace and Constables Association of Texas; Kristen Lenau, Texas Association Against Sexual Assault; Seetha Kulandaisamy, Texas Council on Family Violence; and nine individuals)

Against — (*Registered, but did not testify*: Michael Fossum; Zoila Vega-Marchena)

On — (*Registered, but did not testify*: Brady Mills, Texas DPS Crime Laboratory)

**BACKGROUND:** Government Code sec. 420.034 provides for a statewide electronic tracking system for evidence collected in relation to a sexual assault or other sex offense. It tracks the location and status of each item of evidence through the criminal justice process, allows an entity in the chain of custody to update and track an item's status and location, and allows a survivor to track or receive status updates on evidence collected in relation to the offense.

Sec. 420.045 requires each law enforcement agency and public accredited crime lab to submit a quarterly report to the Department of Public Safety identifying the number of evidence collection kits that the agency has not

yet submitted for analysis or which the crime lab has not yet analyzed.

Sec. 420.042 requires a law enforcement agency that received evidence of a sexual assault or other sex offense to submit the evidence to a public accredited crime lab for analysis within 30 days.

The 86th Legislature enacted the Lavinia Masters Act, HB 8 by Neave, which sought to reduce the backlog in sexual assault evidence collection kits by addressing their tracking, collection, and analysis in Texas. Some have suggested certain changes to address accountability for the collection, tracking, and analysis of such evidence.

**DIGEST:**

CSHB 2555 would require the statewide electronic tracking system for evidence of sexual assault or another sex offense to include the evidence collection kit and any other items collected during a forensic medical exam related to a sexual assault or other sex offense, regardless of whether the evidence was collected in relation to an individual who was alive or deceased.

A health care facility or other entity that performed such a forensic medical exam and received written consent to release the evidence would have to enter the identification number of the evidence collection kit into the statewide electronic tracking system within two business days after the exam was performed.

A law enforcement agency that failed to submit evidence of a sexual assault or other sex offense to a public accredited crime lab within the required 30-day period would have to provide detailed written documentation of the failure to the Department of Public Safety (DPS) within 30 days of discovering that the evidence was not submitted.

Under the bill, failure to comply with state laws governing the collection, preservation, and tracking of sexual offense evidence could be used to determine eligibility for receiving grant funds from DPS, the Office of the Governor, or another state agency.

The bill would require DPS to submit a report to the governor, lieutenant governor, House speaker, and the Legislature by December 1 of each year identifying the number of evidence collection kits that had not yet been submitted for lab analysis or for which the analysis had not yet been completed, rather than requiring each law enforcement agency and public accredited crime lab to submit a quarterly report to DPS identifying such information. The DPS report would be titled the “Statewide Electronic Tracking System Report.”

The bill would take effect September 1, 2021, and would apply only to evidence of sexual assault or other sex offense collected or in possession of a law enforcement agency on or after that date.