



Health Facility Compliance Guidance Letter

Number: GL 23-2005
Title: New and Amended Survivors of Sexual Assault Response and Treatment Requirements (SB 1401-88R, SB 1402-88R)
Provider Types: Freestanding Emergency Medical Care Facilities, General and Special Hospitals
Date Issued: January 11, 2024

1.0 Subject and Purpose

The Texas Health and Human Services Commission (HHSC) provides guidance to providers HHSC licenses on enacted legislation impacting their provider type. [Senate Bill \(SB\) 1401](#), relating to the rights of victims of sexual assault and to certain procedures and reimbursements occurring with respect to a sexual assault or other sex offense, and [SB 1402](#), relating to the composition, continuation, and duties of the Sexual Assault Survivors' Task Force, compensation for task force members and certain other task force participants, and establishment of a mandatory training program for persons responding to reports of and treating survivors of child sexual abuse and adult sexual assault, took effect September 1, 2023.

This letter provides instruction to freestanding emergency medical care (FEMC) facilities and general and special hospitals regarding SB 1401 and SB 1402 and outlines provider responsibilities and expectations. Please note this guidance letter only describes the bill provisions relevant to these providers.

2.0 Background and History

As stated in the [SB 1401 author's and sponsor's statement of intent](#), SB 1401 implements recommendations from the Governor's Sexual Assault Survivors' Task Force report. The bill amends requirements for health care providers to conduct forensic medical examinations on survivors of sexual assault to ensure survivors receive appropriate medical care and to ensure proper evidence collection for potential legal proceedings.

SB 1401 also allows a survivor of sexual assault to receive reimbursement for certain costs related to the forensic medical examination, which helps ensure necessary financial support for survivors of sexual assault.

Additionally, SB 1401 makes changes to the processes and notification requirements for transferring and preserving evidence collected during a forensic medical examination for a sexual assault. The changes help ensure efficient notification processing for the Texas Department of Public Safety and ensures survivors of sexual assault have control over evidence preservation and can exercise their legal rights.

As stated in the [SB 1402 author's/sponsor's statement of intent](#), SB 1402 helps ensure health care providers and law enforcement officers receive specialized training about trauma-informed child sexual abuse and sexual assault investigations to become better equipped to handle sexual assault cases, including evidence collection, and providing appropriate care to survivors of sexual assault.

3.0 SB 1401 Legislative Details & Provider Responsibilities

SB 1401 repealed Texas Code of Criminal Procedure (CCP) Article 56A, Subchapter F, Forensic Medical Examination of Sexual Assault Victim Reporting Assault, and CCP Article 56A.306(d). SB 1401 also consolidated and amended the requirements for forensic medical exams for survivors of sexual assault under [CCP Article 56A, Subchapter G](#).

The bill also amended Texas Health and Safety Code (HSC) Sections [323.005](#), [323.0051](#), and [323.0052](#) to require certain changes to the HHSC information sheets relating to survivors of sexual assault.

3.1 Forensic Medical Examination Requirements

Amended [CCP Article 56A.303](#) requires a health care provider to conduct a forensic medical examination of:¹

- A survivor of sexual assault who is a minor² regardless of when the survivor arrives at the provider in any of the following situations:³
 - The survivor consents to the exam.

¹ [CCP Article 56A.303\(a\)](#).

² Refer to definition at [Texas Family Code Section 101.003](#).

³ [CCP Article 56A.303\(a\)\(1\)](#).

- A person authorized to act on behalf of the survivor consents to the exam.
- A Texas Department of Family and Protective Services (DFPS) employee consents to the exam.
- Consent is provided in accordance with Texas Family Code Sections [32.003](#) or [32.005](#).
- A survivor of sexual assault who is not a minor, if the survivor arrives at the provider within 120 hours after the assault occurred.⁴
- A survivor of a sexual assault who is not a minor, if the survivor arrives at the provider later than 120 hours after the assault occurred and the survivor is referred for a forensic medical examination by either of the following:
 - A law enforcement agency.
 - A physician, sexual assault examiner, or sexual assault nurse examiner who determined the need for a forensic medical examination after conducting a preliminary medical evaluation.⁵
- A survivor of sexual assault who is not a minor, if the survivor, a person authorized to act on behalf of the survivor, or a DFPS employee consents to the examination.⁶

Except for [CCP Article 56A.306\(c\)](#), the changes made by SB 1401 to the CCP Chapters 56A and 56B apply only to a sexual assault or other sex offense that is first reported or for which medical care was first sought on or after September 1, 2023. A sexual assault or other sex offense that is first reported or for which medical care was first sought before September 1, 2023, is governed by the law in effect on the date the sexual assault was reported, or the medical care was sought.⁷

3.2 Forensic Medical Examination Reimbursement

Amended [CCP Article 56A.304\(a\) and \(b\)](#) updates the requirements for health care providers, sexual assault examiners, and sexual assault nurse examiners that provide a forensic medical examination to a survivor of sexual assault. The amendments clarify reimbursement under this section

⁴ [CCP Article 56A.303\(a\)\(2\)\(A\)\(i\)](#).

⁵ [CCP Article 56A.303\(a\)\(2\)\(A\)\(ii\)](#).

⁶ [CCP Article 56A.303\(a\)\(2\)\(B\)](#).

⁷ [SB 1401 Section 26\(a\)](#)

are subject to [CCP Article 56A.305\(e\)](#) and examinations must be in accordance with [CCP Subchapter G](#). The amendments remove the requirement that the exam must occur within 120 hours after the sexual assault occurred.

The amendments also allow for a health care provider, sexual assault examiner, or sexual assault nurse examiner who conducts an examination of a survivor of sexual assault to be reimbursed in an amount set by the attorney general rule for the reasonable cost of other medical care provided to the survivor during the forensic medical examination conducted in accordance with [HSC Chapter 323 Subchapters A and B](#). Additionally, the amendments add a requirement that the application for reimbursement include a complete and itemized bill for any additional medical care provided during the exam.

3.3 Changes to Information Sheets for Survivors of Sexual Assault

SB 1401 amended requirements for the information sheets [HSC Chapter 323](#) requires HHSC to develop for health care providers to provide to survivors of sexual assault.

Amended [HSC Section 323.005](#) updates the content on the information sheet for survivors of sexual assault as required by this section regarding requirements for information about payment of costs and the reimbursements available for testing and care.⁸

Amended [HSC Section 323.0051](#) requires HHSC to develop an information sheet for non-SAFE ready facilities, to:

- Add a statement informing parents or guardians of a minor of the minor's right to receive the forensic medical examination at any time, regardless of when the assault occurred.⁹
- Remove the statement requiring law enforcement to first authorize the examination if a survivor makes a report to law enforcement.
- Update the term "rape crisis center" to "sexual assault crisis center".¹⁰

Amended [HSC Section 323.0052\(a\)](#) clarifies the HHSC information sheet for survivors of sexual assault who have not given signed, written consent to a health care facility to release evidence must include language about the Department of Public Safety's procedures regarding notifying the survivor

⁸ [HSC Section 323.005\(a\)\(4\)](#).

⁹ [HSC Section 323.0051\(a\)\(3\)\(A\)](#).

¹⁰ [HSC Section 323.0051\(3\)\(B\)](#).

through the statewide electronic tracking system before planned evidence destruction, and updates the term "rape crisis center" to "sexual assault crisis center."

HHSC published the updated information sheets reflecting SB 1401's changes to HSC Chapter 323 on December 20, 2023. These information sheets are available for download on the [HHSC Information for Survivors of Sexual Assault webpage](#).

As a reminder, facilities must use the most current version of these forms and may not make changes to the information sheet. A facility may add the facility-specific information on the sheets and print the information sheet and make copies for distribution.

4.0 SB 1402 Legislative Details & Provider Responsibilities

SB 1402 amended the basic sexual assault forensic evidence collection training requirements under [HSC Section 323.0045](#).

SB 1402 also added new [HSC Section 323.0046](#) to require health care facilities that have an emergency department to provide basic sexual assault response training for certain health care facility staff. SB 1402 also requires health care facilities that have an emergency department and are not a SAFE-ready facility to develop a written policy to ensure all appropriate facility personnel complete the basic sexual assault response training.

4.1 Basic Forensic Evidence Collection Requirements

Amended [HSC Section 323.0045\(a\)](#) requires a person who performs a forensic medical examination on a survivor of sexual assault to complete one of the following:

- At least two hours of basic forensic evidence collection training.
- Equivalent education that conforms to the evidence collection protocol developed by the attorney general under [Texas Government Code Section 420.031](#).

Amended [HSC Section 323.0045\(b\)](#) clarifies a person who completes a continuing medical or nursing education course in forensic evidence collection described by Texas Occupations Code Sections [156.057](#) and [301.306](#) that is approved or recognized by the appropriate licensing board is considered to have completed basic forensic evidence collection training for purposes of HSC CH 323.

Amended [HSC Section 323.0045\(c\)](#) requires a health care facility with an emergency department that is not a SAFE-ready facility to have a written

policy to ensure a person who performs a forensic medical examination on a survivor of sexual assault completes the required training under HSC Section 323.0045.

4.2 Basic Sexual Assault Response Training Requirements

New [HSC Section 323.0046\(a\)](#) requires a health care facility with an emergency department to provide at least one hour of basic sexual assault response training to facility employees who provide any of the following functions:

- Patient admission
- Patient-related administrative support
- Direct patient care

New [HSC Section 323.0046\(a\)](#) also requires the basic sexual assault response training to include instruction on all the following topics:

- Providing survivor-centered, trauma-informed care to survivors of sexual assault
- The rights of survivors of sexual assault under [CCP Chapter 56A](#), including:
 - The availability of a forensic medical examination, including the availability of an examination when a survivor of sexual assault does not report the assault to a law enforcement agency.
 - The role of an advocate¹¹ in responding to a survivor of sexual assault.

New [HSC Section 323.0046\(b\)](#) clarifies an employee who completes a continuing medical or nursing education course in forensic evidence collection described by Texas Occupations Code Sections [156.057](#) and [301.306](#), that is approved or recognized by the appropriate licensing board is considered to have completed basic sexual assault response training for purposes of [HSC Section 323.0046](#).

New [HSC Section 323.0046\(c\)](#) requires each health care facility with an emergency department that is not a SAFE-ready facility to develop a written

¹¹ Refer to definition at [Government Code Section 420.003](#).

policy to ensure all appropriate facility personnel complete the basic sexual assault response training.

5.0 Resources

Review SB 1401 (88th Legislature, Regular Session, 2023) at:
<https://capitol.texas.gov/tlodocs/88R/billtext/html/SB01401F.htm>.

Review SB 1402 (88th Legislature, Regular Session, 2023) at:
<https://capitol.texas.gov/tlodocs/88R/billtext/html/SB01402F.htm>.

Review SB 1401 Author's/Sponsor's Statement of Intent at:
<https://capitol.texas.gov/tlodocs/88R/analysis/html/SB01401F.htm>.

Review SB 1402 Author's/Sponsor's Statement of Intent at:
<https://capitol.texas.gov/tlodocs/88R/analysis/html/SB01402F.htm>.

Review Texas Code of Criminal Procedure Chapter 56A, Subchapter G at:
<https://statutes.capitol.texas.gov/Docs/CR/htm/CR.56A.htm#G>.

Review Texas Health and Safety Code Chapter 323 at:
<https://statutes.capitol.texas.gov/Docs/HS/htm/HS.323.htm>.

Review Texas Family Code Chapter 32 at:
<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.32.htm>.

Review the HHSC Information for Survivors of Sexual Assault webpage at:
<https://www.hhs.texas.gov/providers/health-care-facilities-regulation/information-survivors-sexual-assault>.

Review Texas Government Code Section 420.031 at:
<https://statutes.capitol.texas.gov/Docs/GV/htm/GV.420.htm#420.031>.

Review Texas Occupations Code Section 156.057 at:
<https://statutes.capitol.texas.gov/Docs/OC/htm/OC.156.htm#156.057>.

Review Texas Occupations Code Section 301.306 at:
<https://statutes.capitol.texas.gov/Docs/OC/htm/OC.301.htm#301.306>.

Review Texas Code of Criminal Procedure Chapter 56A at:
<https://statutes.capitol.texas.gov/Docs/CR/htm/CR.56A.htm#56A>.

To receive future updates, sign up for GovDelivery at:
<https://service.govdelivery.com/accounts/TXHHSC/subscriber/new>.

6.0 Contact Information

Email the Policies and Rules Unit at: HCR_PRU@hhs.texas.gov if you have any questions about this letter.