

IMPLEMENTATION of HB 2462

87th Legislative Session

BILL INTENT

- Increase access to non-acute forensic medical exams for children who report abuse outside of 120 hours
- Shift discretion of providing a medical exam into the hands of the survivor, parent/guardian, and the SANE or medical professional performing the exam

STATUTORY LANGUAGE (as of 09.01.2021)

- Texas Code of Criminal Procedure, Art. 56A.251(b):
“If a sexual assault is not reported within the period described by Subsection (a) [i.e., 120 hours] and the victim is a minor as defined by Section 101.003, Family Code, on receiving the consent described by Subsection (a) or the consent described by Section 32.003 or 32.005, Family Code, a law enforcement agency shall request a forensic medical examination of the victim for use in the investigation or prosecution of the offense.”

SUMMARY OF CHANGES

- “Sexual assault” is purposely not defined in the bill. While it can be interpreted to include those instances of penetration or contact, “sexual assault” does not include *all* cases of touching/indecency of a child, thus codifying the guidance articulated in the Medical Evaluations Guidelines, previously adopted by CACTX and the Texas Pediatrics Society. CACs should continue to follow current Working Protocols that hopefully dictate that a forensic exam is recommended under these circumstances.
- Medical professionals should continue to use discretion and professional judgment in not performing an exam or limiting the scope of the exam when considering the health and safety of the victim, etc.
- In addition to the relevant portion above related to forensic medical exams for children, the bill also:
 - Increases access to exams for adult survivors and clarifies the reimbursement process for exams through the OAG; and
 - Amends Government Code provisions related to how sexual assault exam evidence is tracked through the system.

TIPS FOR IMPLEMENTATION

- **Conduct open and clear communication with your MDT partners**, particularly your law enforcement partners and SANEs/medical professionals who provide medical evaluation services for your CAC. This communication should be happening now, in preparation for HB 2462 taking effect September 1, 2021.
- **Convene your MDT** to discuss implementation of HB 2462. This can be achieved with targeted communication with relevant MDT partners, discussion at your next case review meeting or facilitating an MDT meeting for the specific purpose of discussing the impact of this bill.
- **Encourage medical and law enforcement partners** to have conversations with their respective teams and colleagues regarding the relevant changes in HB 2462.
- **Be mindful of partnerships** when discussing the key changes of HB 2462. Reiterate that the intent of the bill was to increase access to non-acute exams for child survivors of sexual assault.
- **Ensure your CAC’s protocols align with HB 2462, are reflective of agreed-upon practices**, and are fully re-executed by leadership of all MDT partner agencies. We strongly recommend that MDTs use the Medical Evaluation Guidelines as a tool to inform their team’s local practices and protocols, as the guidelines represent best practices in determining which child victims of alleged abuse should be referred for a medical evaluation.

