

HEALTH AND SAFETY CODE

TITLE 4. HEALTH FACILITIES

SUBTITLE G. PROVISION OF SERVICES IN CERTAIN FACILITIES

CHAPTER 323. EMERGENCY SERVICES AND FORENSIC EXAMINATION PROGRAMS
FOR SURVIVORS OF SEXUAL ASSAULT

SUBCHAPTER A. EMERGENCY SERVICES FOR SURVIVORS
OF SEXUAL ASSAULT

Sec. 323.001. DEFINITIONS. In this subchapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Department" means the Department of State Health Services.

(3) "Health care facility" means a general or special hospital licensed under Chapter 241, a general or special hospital owned by this state, or a freestanding emergency medical care facility licensed under Chapter 254.

(3-a) "SAFE-ready facility" means a health care facility designated as a sexual assault forensic exam-ready facility under Section 323.0015. The term includes a SAFE program designated as a SAFE-ready facility under Section 323.052.

(3-b) "SAFE program" has the meaning assigned by Section 323.051.

(4) "Sexual assault" means any act as described by Section 22.011 or 22.021, Penal Code.

(4-a) "Sexual assault forensic examiner" means a certified sexual assault nurse examiner or a physician with specialized training on conducting a forensic medical examination.

(5) "Sexual assault survivor" means an individual who is a victim of a sexual assault, regardless of whether a report is made or a conviction is obtained in the incident.

Added by Acts 2005, 79th Leg., Ch. 934 (H.B. 677), Sec. 1, eff. September 1, 2005.

Renumbered from Health and Safety Code, Section 322.001 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(47), eff. September 1, 2007.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1063 (H.B. 3152), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1063 (H.B. 3152), Sec. 7, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 822 (H.B. 2706), Sec. 11, eff. September 1, 2021.

Sec. 323.0015. SAFE-READY FACILITIES. The department shall designate a health care facility as a sexual assault forensic exam-ready facility, or SAFE-ready facility, if the facility notifies the department that the facility employs or contracts with a sexual assault forensic examiner or uses a telemedicine system of sexual assault forensic examiners to provide consultation to a licensed nurse or physician when conducting a sexual assault forensic medical examination.

Added by Acts 2017, 85th Leg., R.S., Ch. 1063 (H.B. 3152), Sec. 2, eff. September 1, 2017.

Sec. 323.002. PLAN FOR EMERGENCY SERVICES. (a) Each health care facility that has an emergency department shall comply with Sections 323.004 and 323.0044. At the request of the department, a health care facility that has an emergency department shall submit to the department for approval a plan for providing the services required by Section 323.004 to sexual assault survivors who arrive for treatment at the emergency department of the health care facility.

(b) The executive commissioner of the Health and Human Services Commission shall adopt procedures for submission, approval, and modification of a plan required under this section.

(c) A health care facility shall submit the plan required by this section not later than the 60th day after the date the department requests the plan.

(d) The department shall approve or reject the plan not later than the 120th day after the date the plan is submitted.

Added by Acts 2005, 79th Leg., Ch. 934 (H.B. 677), Sec. 1, eff. September 1, 2005.

Renumbered from Health and Safety Code, Section 322.002 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(47), eff. September 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.002(10), eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 162 (S.B. 1191), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0857, eff. April 2, 2015.

Acts 2021, 87th Leg., R.S., Ch. 822 (H.B. 2706), Sec. 12, eff. September 1, 2021.

Sec. 323.003. REJECTION OF PLAN. (a) If a plan required under Section 323.002 is not approved, the department shall:

- (1) return the plan to the health care facility; and
- (2) identify the specific provisions under Section 323.004 with which the plan conflicts or does not comply.

(b) Not later than the 90th day after the date the department returns a plan to a health care facility under Subsection (a), the facility shall correct and resubmit the plan to the department for approval.

Added by Acts 2005, 79th Leg., Ch. 934 (H.B. 677), Sec. 1, eff. September 1, 2005.

Renumbered from Health and Safety Code, Section 322.003 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(47), eff. September 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.002(11), eff. September 1, 2007.

Sec. 323.004. MINIMUM STANDARDS FOR EMERGENCY SERVICES. (a) Except as otherwise provided by Subsection (a-2), after a sexual assault survivor arrives at a health care facility following a sexual assault, the facility shall provide care to the survivor in accordance with Subsection (b).

(a-1) A facility that is not a SAFE-ready facility shall

inform the sexual assault survivor that:

(1) the facility is not a SAFE-ready facility and provide to the survivor the name and location of nearby SAFE-ready facilities and the information form required by Section 323.0051; and

(2) the survivor is entitled, at the survivor's option:

(A) to receive the care described by Subsection (b) at that facility, subject to Subsection (b-1); or

(B) to be stabilized and to be referred or transferred to and receive the care described by Subsection (b) at a SAFE-ready facility.

(a-2) If a sexual assault survivor chooses to be transferred under Subsection (a-1)(2)(B), after obtaining the survivor's written, signed consent to the transfer, the facility shall stabilize and transfer the survivor to a SAFE-ready facility, which shall provide care to the survivor in accordance with Subsection (b).

(a-3) Before transferring a sexual assault survivor, a health care facility that is not a SAFE-ready facility shall contact the SAFE-ready facility to which the survivor will be transferred to confirm a sexual assault forensic examiner is available at that facility.

(b) A health care facility providing care to a sexual assault survivor shall provide the survivor with:

(1) subject to Subsection (b-1), a forensic medical examination in accordance with Subchapter B, Chapter 420, Government Code, if the examination has been requested by a law enforcement agency under Subchapter F, Chapter 56A, Code of Criminal Procedure, or is conducted under Subchapter G, Chapter 56A, Code of Criminal Procedure;

(2) a private area, if available, to wait or speak with the appropriate medical, legal, or sexual assault crisis center staff or volunteer until a physician, nurse, or physician assistant is able to treat the survivor;

(3) access to a sexual assault program advocate, if available, as provided by Subchapter H, Chapter 56A, Code of

Criminal Procedure;

- (4) the information form required by Section [323.005](#);
- (5) a private treatment room, if available;
- (6) if indicated by the history of contact, access to appropriate prophylaxis for exposure to sexually transmitted infections;
- (7) the name and telephone number of the nearest sexual assault crisis center; and
- (8) if the health care facility has shower facilities, access to a shower at no cost to the survivor after the examination described by Subdivision (1).

(b-1) A person may not perform a forensic examination on a sexual assault survivor unless the person has the basic training described by Section [323.0045](#) or the equivalent education and training.

(c) A health care facility must obtain documented consent before providing the forensic medical examination and treatment. The facility shall presume that an adult sexual assault survivor requesting a forensic medical examination and treatment is competent.

(d) This section does not affect the duty of a health care facility to comply with the requirements of the federal Emergency Medical Treatment and Active Labor Act of 1986 (42 U.S.C. Section 1395dd) that are applicable to the facility.

Added by Acts 2005, 79th Leg., Ch. 934 (H.B. [677](#)), Sec. 1, eff. September 1, 2005.

Renumbered from Health and Safety Code, Section 322.004 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 17.001(47), eff. September 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 17.002(12), eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1140 (H.B. [2626](#)), Sec. 4, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 162 (S.B. [1191](#)), Sec. 2, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 1063 (H.B. [3152](#)), Sec. 3, eff.

September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. [4173](#)), Sec. 2.54, eff. January 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1329 (H.B. [4531](#)), Sec. 1, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 822 (H.B. [2706](#)), Sec. 13, eff. September 1, 2021.

Sec. 323.0044. PROVISION OF EMERGENCY SERVICES TO CERTAIN ADULT SEXUAL ASSAULT SURVIVORS. (a) A health care facility shall provide a forensic medical examination and treatment to an adult sexual assault survivor for whom a guardian is appointed under Title 3, Estates Code, without the consent of the survivor's guardian, guardian ad litem, or other legal agent if:

(1) the health care facility determines the survivor understands the nature of the forensic medical examination and treatment; and

(2) the survivor agrees to receive the forensic medical examination and treatment.

(b) Subject to Subsection (c), if an adult sexual assault survivor requests a forensic medical examination and treatment and a health care facility determines the survivor potentially is incapable of consenting to the forensic medical examination and treatment, the health care facility may:

(1) obtain consent from a relative or caretaker of the survivor on the survivor's behalf;

(2) obtain consent from the survivor's guardian, guardian ad litem, or other legal agent; or

(3) petition a court with probate jurisdiction in the county in which the facility is located for an emergency order authorizing the forensic medical examination and treatment, in the manner provided by Section [48.208](#), Human Resources Code.

(c) If personnel of a health care facility know or have reason to believe that the survivor's relative, caretaker, guardian, guardian ad litem, or other legal agent is a suspect or accomplice in the sexual assault of the survivor, the health care facility may not contact the survivor's relative, caretaker,

guardian, guardian ad litem, or other legal agent.

(d) A health care facility may not provide a forensic medical examination to an adult sexual assault survivor for whom a guardian is appointed under Title 3, Estates Code, if the survivor refuses the examination, regardless of whether the survivor's guardian requests or consents to the examination.

Added by Acts 2019, 86th Leg., R.S., Ch. 1329 (H.B. 4531), Sec. 2, eff. September 1, 2019.

Sec. 323.0045. BASIC SEXUAL ASSAULT FORENSIC EVIDENCE COLLECTION TRAINING. (a) A person who performs a forensic examination on a sexual assault survivor must have at least basic forensic evidence collection training or the equivalent education.

(b) A person who completes a continuing medical or nursing education course in forensic evidence collection that is approved or recognized by the appropriate licensing board is considered to have basic sexual assault forensic evidence training for purposes of this chapter.

(c) Each health care facility that has an emergency department and that is not a SAFE-ready facility shall develop a plan to train personnel on sexual assault forensic evidence collection.

Added by Acts 2013, 83rd Leg., R.S., Ch. 162 (S.B. 1191), Sec. 3, eff. September 1, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1063 (H.B. 3152), Sec. 4, eff. September 1, 2017.

Sec. 323.005. INFORMATION FORM. (a) The commission shall develop a standard information form for sexual assault survivors that must include:

(1) a detailed explanation of the forensic medical examination required to be provided by law, including a statement that photographs may be taken of the genitalia;

(2) information regarding treatment of sexually transmitted infections and pregnancy, including:

(A) generally accepted medical procedures;

(B) appropriate medications; and

(C) any contraindications of the medications prescribed for treating sexually transmitted infections and preventing pregnancy;

(3) information regarding drug-facilitated sexual assault, including the necessity for an immediate urine test for sexual assault survivors who may have been involuntarily drugged;

(4) information regarding crime victims compensation, including:

(A) a statement that public agencies are responsible for paying for the forensic portion of an examination conducted under Subchapter F or G, Chapter 56A, Code of Criminal Procedure, and for the evidence collection kit used in connection with the examination and that the health care facility or provider, as applicable, is responsible for seeking reimbursement for those costs; and

(B) information regarding the reimbursement of the survivor for the medical portion of the examination;

(5) an explanation that consent for the forensic medical examination may be withdrawn at any time during the examination;

(6) the name and telephone number of sexual assault crisis centers statewide;

(7) information regarding postexposure prophylaxis for HIV infection;

(8) information regarding the period for which biological evidence collected from the forensic medical examination will be retained and preserved under Article 38.43, Code of Criminal Procedure; and

(9) a statement that the survivor has the right to access a shower for free after the forensic medical examination, if shower facilities are available at the health care facility.

(b) A health care facility shall use the standard form developed under this section.

(c) An individual employed by or under contract with a health care facility may refuse to provide the information form required by this section for ethical or religious reasons. If an

individual employed by or under contract with a health care facility refuses to provide the survivor with the information form, the health care facility must ensure that the information form is provided without delay to the survivor by another individual employed by or under contract with the facility.

(d) In addition to providing the information form described by Subsection (a), a health care facility shall ensure that the information described by Subsection (a)(4)(A) is orally communicated to the survivor.

Added by Acts 2005, 79th Leg., Ch. 934 (H.B. 677), Sec. 1, eff. September 1, 2005.

Renumbered from Health and Safety Code, Section 322.005 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(47), eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1140 (H.B. 2626), Sec. 5, eff. June 19, 2009.

Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 10, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.55, eff. January 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1037 (H.B. 616), Sec. 6, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 822 (H.B. 2706), Sec. 14, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 10.005, eff. September 1, 2021.

Sec. 323.0051. INFORMATION FORM FOR SEXUAL ASSAULT SURVIVORS AT CERTAIN FACILITIES. (a) The commission shall develop a standard information form for sexual assault survivors who arrive at a health care facility that is not a SAFE-ready facility. The information form must include:

(1) information regarding the benefits of a forensic medical examination conducted by a sexual assault forensic examiner;

(2) the Internet website address to the commission's

list of SAFE-ready facilities that includes the facilities' physical addresses as required by Section [323.008](#);

(3) the following statements:

(A) "As a survivor of sexual assault, you have the right to receive a forensic medical examination at this hospital emergency room if you are requesting the examination not later than 120 hours after the assault.";

(B) "A report to law enforcement is not required, but if you make a report, law enforcement must first authorize the examination."; and

(C) "Call 1-800-656-HOPE to be connected to a rape crisis center for free and confidential assistance."; and

(4) information on the procedure for submitting a complaint against the health care facility.

(b) A health care facility that is not a SAFE-ready facility shall provide the standard information form developed under this section to each sexual assault survivor who arrives at the facility.

Added by Acts 2017, 85th Leg., R.S., Ch. 1063 (H.B. [3152](#)), Sec. 5, eff. September 1, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1037 (H.B. [616](#)), Sec. 7, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 822 (H.B. [2706](#)), Sec. 15, eff. September 1, 2021.

Sec. 323.0052. INFORMATION FORM FOR SEXUAL ASSAULT SURVIVORS WHO HAVE NOT REPORTED ASSAULT. (a) The commission shall develop a standard information form that, as described by Subsection (b), is to be provided to sexual assault survivors who have not given signed, written consent to a health care facility to release the evidence as provided by Section [420.0735](#), Government Code. The form must include the following information:

(1) the Department of Public Safety's policy regarding storage of evidence of a sexual assault or other sex offense that is collected under Subchapter [G](#), Chapter [56A](#), Code of Criminal Procedure, including:

(A) a statement that the evidence will be stored until the fifth anniversary of the date on which the evidence was collected before the evidence becomes eligible for destruction; and

(B) the department's procedures regarding the notification of the survivor before a planned destruction of the evidence;

(2) a statement that the survivor may request the release of the evidence to a law enforcement agency and report a sexual assault or other sex offense to the agency at any time;

(3) the name, phone number, and e-mail address of the law enforcement agency with jurisdiction over the offense; and

(4) the name and phone number of a local rape crisis center.

(b) A health care facility that provides care to a sexual assault survivor who has not given consent as described by Subsection (a) shall provide the standard form developed under Subsection (a) to the survivor before the survivor is released from the facility.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 11, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 822 (H.B. 2706), Sec. 16, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 10.006, eff. September 1, 2021.

Sec. 323.006. INSPECTION. The department may conduct an inspection of a health care facility to ensure compliance with this chapter.

Added by Acts 2005, 79th Leg., Ch. 934 (H.B. 677), Sec. 1, eff. September 1, 2005.

Renumbered from Health and Safety Code, Section 322.006 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(47), eff. September 1, 2007.

Sec. 323.007. SEXUAL ASSAULT SURVIVORS WHO ARE MINORS. This chapter does not affect participating entities of

children's advocacy centers under Subchapter E, Chapter 264, Family Code, or the working protocols set forth by their multidisciplinary teams to ensure access to specialized medical assessments for sexual assault survivors who are minors. To the extent of a conflict with Subchapter E, Chapter 264, Family Code, that subchapter controls.

Added by Acts 2013, 83rd Leg., R.S., Ch. 162 (S.B. 1191), Sec. 4, eff. September 1, 2013.

Sec. 323.008. DATA PUBLICATION. The commission shall post on the commission's Internet website a list of all hospitals and other health facilities that are designated as SAFE-ready facilities under this chapter and the facilities' physical addresses. The commission shall update the list quarterly. To the extent possible, the commission shall collect the data required by this section as part of a survey required by the commission under other law.

Added by Acts 2013, 83rd Leg., R.S., Ch. 162 (S.B. 1191), Sec. 4, eff. September 1, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1063 (H.B. 3152), Sec. 6, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 822 (H.B. 2706), Sec. 17, eff. September 1, 2021.

SUBCHAPTER B. SEXUAL ASSAULT FORENSIC EXAMINATION PROGRAMS

Sec. 323.051. DEFINITIONS. In this subchapter:

(1) "SAFE program" means a program that meets the requirements prescribed by Section 323.052. The term does not include a program operated by a health care facility, as defined by Section 323.001.

(2) "Sexual assault examiner," "sexual assault nurse examiner," and "sexual assault program" have the meanings assigned by Section 420.003, Government Code.

(3) "Sexual assault forensic examiner" means a certified sexual assault nurse examiner or a physician licensed

under Subtitle B, Title 3, Occupations Code, with specialized training on conducting a forensic medical examination.

Added by Acts 2021, 87th Leg., R.S., Ch. 822 (H.B. 2706), Sec. 18, eff. September 1, 2021.

Sec. 323.052. OPERATION OF SAFE PROGRAM; DESIGNATION OF SAFE PROGRAM AS SAFE-READY FACILITY. (a) A person may operate a SAFE program only if:

(1) the program meets the minimum standards established under Section 323.053; and

(2) the program provides forensic medical examinations to sexual assault survivors in accordance with Section 323.054.

(b) The Health and Human Services Commission shall designate a SAFE program described by Subsection (a) as a SAFE-ready facility under Section 323.0015 if the program notifies the commission that the program employs or contracts with a sexual assault forensic examiner or uses a telemedicine system of sexual assault forensic examiners to provide consultation during a sexual assault forensic medical examination to a nurse or physician licensed to practice in this state.

Added by Acts 2021, 87th Leg., R.S., Ch. 822 (H.B. 2706), Sec. 18, eff. September 1, 2021.

Sec. 323.053. MINIMUM STANDARDS FOR SAFE PROGRAMS. A SAFE program must:

(1) operate under the active oversight of a medical director who is a physician licensed by and in good standing with the Texas Medical Board;

(2) provide medical treatment under a physician's order, standing medical order, standing delegation order, or other order or protocol as defined by Texas Medical Board rules;

(3) employ or contract with a sexual assault examiner or a sexual assault nurse examiner;

(4) provide access to a sexual assault program advocate, as required by Subchapter H, Chapter 56A, Code of Criminal Procedure;

(5) ensure a sexual assault survivor has access to a private treatment room;

(6) if indicated by a survivor's history or on a survivor's request, provide:

(A) HIV testing and prophylactic medication to the survivor or a referral for the testing and medication; and

(B) counseling and prophylactic medications for exposure to sexually transmitted infections and pregnancy;

(7) provide to survivors the name and telephone number of a nearby sexual assault program that provides to survivors the minimum services described by Subchapter A, Chapter 420, Government Code;

(8) provide to survivors the information form required by Section 323.005, 323.0051, or 323.0052, as applicable, and orally communicate the information regarding crime victims compensation under Section 323.005(a)(4);

(9) collaborate with any sexual assault program, as defined by Section 420.003, Government Code, that provides services to survivors in the county;

(10) engage in efforts to improve the quality of the program;

(11) maintain capacity for appropriate triage or have agreements with other health facilities to assure that a survivor receives the appropriate level of care indicated for the survivor's medical and mental health needs;

(12) prioritize the safety and well-being of survivors;

(13) provide a trauma-informed approach in the forensic medical care provided to survivors; and

(14) collaborate with:

(A) law enforcement agencies and attorneys representing the state with jurisdiction in the county;

(B) any available local sexual assault response team; and

(C) other interested persons in the community.

Added by Acts 2021, 87th Leg., R.S., Ch. 822 (H.B. 2706), Sec. 18, eff. September 1, 2021.

Sec. 323.054. FORENSIC MEDICAL EXAMINATION BY SAFE PROGRAM; INFORMED CONSENT. (a) A SAFE program shall provide to a sexual assault survivor under the care of the program a forensic medical examination in accordance with Subchapter B, Chapter 420, Government Code, if the examination has been requested by a law enforcement agency under Subchapter F, Chapter 56A, Code of Criminal Procedure, or if the examination is performed in accordance with Subchapter G, Chapter 56A, Code of Criminal Procedure.

(b) Only a sexual assault examiner or a sexual assault nurse examiner may perform a forensic medical examination under a SAFE program.

(c) A sexual assault examiner or sexual assault nurse examiner employed by or under contract with a SAFE program must obtain a sexual assault survivor's informed, written consent before performing a forensic medical examination or providing medical treatment to the survivor.

(d) A sexual assault survivor who receives a forensic medical examination from a sexual assault examiner or sexual assault nurse examiner employed by or under contract with a SAFE program may not be required to:

(1) participate in the investigation or prosecution of an offense as a prerequisite to receiving the forensic medical examination or medical treatment; or

(2) pay for the costs of the forensic portion of the forensic medical examination or for the evidence collection kit.

Added by Acts 2021, 87th Leg., R.S., Ch. 822 (H.B. 2706), Sec. 18, eff. September 1, 2021.