YOUR RIGHTS as a SURVIVOR

ADULT

This guide was written by and for adult survivors of sexual assault in Texas.

Its purpose is to empower survivors by providing them with an accessible overview of their rights, informing them about the systems designed to serve them, and promoting access to appropriate and timely care.

...AT THE MEDICAL FACILITY

During a Sexual Assault Forensic Exam, Adult Survivors have the right to:

A **medical forensic exam**, within 120 hours of the assault. A survivor is entitled to receive an exam after 120 hours, if referred by law enforcement or a **medical provider**, for treatment and evidence collection by a certified **SANE (Sexual Assault Nurse Examiner)** or medical provider.

Texas Code of Criminal Procedure Arts. **56A.303**

Refuse medical treatment or stop an exam at any time

Texas Health and Safety Code **§462.009**

Have an **advocate** from a sexual assault program in the room with you during an exam and have it documented if that offer was extended, whether the advocate was available, and if not why

Texas Code of Criminal Procedure Art. **56A.351** & **56A.351 (f)**

Not be charged for the forensic portion of the exam or any **Emergency Medical Care** and provided during the 30-day period following the exam

Texas Code of Criminal Procedure Art. **56A.052**, **56A.304(a)(f)** & **56A.305**

Request to receive counseling on and testing for **AIDS/HIV** infections

Texas Code of Criminal Procedure Art. **56A.052 (a)(3)(5)**

A private treatment room and access to a shower, if one is available after a medical forensic exam *(if provider space allows)*

Texas Health and Safety Code **§§323.004 (b)(5)(8)** & **323.053**

Receive information on the status of **evidence collected** during a medical forensic exam, and/or "track" the evidence through the **Track-Kit** website

Texas Government Code **§420.034 (c)(4)**

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You do not have to contact law enforcement to be entitled to the rights listed in this section.

After a medical forensic exam, you have three reporting options:

1. File a report with law enforcement and have the sexual assault evidence kit tested by a lab;
2. Do not file a report and have the kit tested for foreign DNA by a lab or;
3. Do not file a report and do not have the kit tested by a lab.

Texas Code of Criminal Procedure Art. **56A.306**

If you do not file a report, the evidence collected from your forensic medical exam will be stored for five years by the Texas Department of Public Safety. For further information, please visit **dps.texas.gov/section/crime-laboratory/non-reported-sexual assault-evidence-program**

YOUR RIGHTS as a ADULT SURVIVOR

...DURING AN INVESTIGATION

During their interaction with law enforcement, Adult Survivors have the right to:

Be offered a medical forensic exam

Texas Code of Criminal Procedure Art. **56A.403**

Use a **pseudonym** (in place of your name) on public facing police reports and databases and in legal proceedings regarding the offense

Texas Code of Criminal Procedure Arts. **58.102** & **58.103**

Have an **advocate** from a sexual assault program and/or an attorney present with you during the law enforcement investigative/follow-up interviews

Texas Code of Criminal Procedure Art. **56A.3515**

Have law enforcement coordinate with the **Sexual Assault Response Team (SART)** to provide continuing care

Texas Code of Criminal Procedure Art. **56A.403 (d)(1)**

Not be required or requested to take a **polygraph** examination by a law enforcement officer or an attorney representing the state

Texas Code of Criminal Procedure Art. **15.051**

Be provided with a written notice containing information about **Crime Victims' Compensation**, pseudonym, Track-Kit, and a written referral to the nearest sexual assault program. The notice must be in English and Spanish and must include contact information for the prosecutor office's **Victim Assistance Coordinator**, the law enforcement agencies' **Crime Victim Liaison**, nearest sexual assault program, and a health care facility that offers sexual assault forensic medical examinations.

Texas Code of Criminal Procedure Art. **56A.403**

The prompt return of property that is no longer needed as evidence

Texas Code of Criminal Procedure Art. **56A.051 (9)**

Report sexual abuse to law enforcement or regulators, even if you signed a confidentiality or nondisclosure agreement

Texas Civil Practice and Remedies Code, **Chapter 129C**. Agreements Prohibiting Disclosures Regarding Sexual Abuse

If requested, receive information on the status of evidence collected during a medical forensic exam; including testing of biological evidence and completion of DNA database comparisons **(CODIS)**

Texas Government Code **§420.034 (c)(4)** & Texas Code of Criminal Procedure Art. **56A.052 (a)(2)**

...AFTER AN ARREST

If someone is arrested for the assault, Adult Survivors have the right to:

Request an emergency **protective order** from the courts while the defendant is still in custody, or have one requested on your behalf, and receive a copy of that order. The court must ask whether you want your mailing address or county of residence redacted from public records and shall honor your request.

Texas Code of Criminal Procedure Art. **17.292** & Texas Family Code **§ 82.011**

To be informed, if requested, about a defendant's right to bail, as well as procedures in criminal investigations and the criminal justice system

Texas Code of Criminal Procedure Art. **56A.051(a)(3)(4)**

Have the safety of you and your family considered when bail is set for the offender

Texas Code of Criminal Procedure Art. **56A.051 (a)(2)**

Have the **indicted** or convicted offender tested for AIDS/HIV infections or antibodies

Texas Code of Criminal Procedure Art. **21.31**

...AFTER CONVICTION

If the offender is convicted, Adult Survivors have the right to:

Upon conviction or **deferred adjudication**, have a permanent protective order filed on your behalf

Texas Code of Criminal Procedure Art. **7B.001 (a)(1)(2)**

Provide a Victim Impact Statement, describing how the crime has impacted your life, to be considered by the prosecution, judge, and Board of Pardons and Paroles at the time of sentencing and during any parole hearing

Texas Code of Criminal Procedure Arts. **56A.051 (a)(5)(12)** & **56A.151**

Be informed of the ways in which your Victim Impact Statement may be used

Texas Code of Criminal Procedure Art. **56A.051 (a)(12)(A–B)**

Be informed of parole procedures, participate in the parole process, be notified of parole proceedings, provide Board of Pardons and Paroles information to be considered for parole, and be notified of the offender's release

Texas Code of Criminal Procedure Art. **56A.051 (a)(7)(A–D)**

Request victim-offender mediation by the Texas Department of Criminal Justice

Texas Code of Criminal Procedure Art. **56A.602 (2)**

...IN COURT PROCEEDINGS

If their case goes to court, Adult Survivors have the right to:

If requested, be informed about relevant **court proceedings**, and to receive notice of these proceedings or any cancellations at least five business days in advance, when practicable

Texas Code of Criminal Procedure Arts. **56A.051 (a)(3)(A N)**

To receive notice that the attorney representing the state does not represent the victim

Texas Code of Criminal Procedure Art **56A.451(a)(3)**

To receive notice that you have a right to assert your crime victims rights orally or in writing, individually or through an attorney

Texas Code of Criminal Procedure Art. **56A.451(a)(6)(E)**

Be present for all public hearings or courtroom proceedings. The only time you may be excluded from the courtroom proceedings is during the testimony of other witnesses in the trial against your offender.

Texas Code of Criminal Procedure Art. **56A.051 (b)**

A separate, secure area for you to wait to testify in proceedings concerning the offender

Texas Code of Criminal Procedure Art. **56A.051 (a)(8)**

Receive law enforcement protection from threats or harm for cooperating with prosecution

Texas Code of Criminal Procedure Art. **56A.051 (a)(1)**

Have the attorney representing the state notify your employer, if requested, if testifying requires your absence from work

Texas Code of Criminal Procedure Art. **56A.051 (a)(10)**

If requested, provide the prosecutor with your input regarding the case before critical decisions are made such as decisions not to file charges, dismiss charges, use a pretrial intervention program or a plea bargain agreement

Texas Code of Criminal Procedure Art. **56A.052 (a)(4)**

Use a pseudonym in place of their legal name during the prosecution phase to protect their identity and maintain confidentiality

Texas Code of Criminal Procedure Art. **56A.3515**

Be informed about **plea bargains** and the terms of the agreement before they are accepted by the court

Texas Code of Criminal Procedure Arts. **56A.453** & **26.13(e)(2)(A)**

Be conferred with by the State before the court accepts a plea of guilty or a plea of no contest

Texas Code of Criminal Procedure Art **26.13(e)(2)(B)**

To request that your court proceedings not be livestreamed or broadcasted to the public

Texas Government Code **§21.014**

To have evidence collected during your forensic medical examination protected from unauthorized use or disclosure. This evidence cannot be used against you for any misdemeanor offense, and the court must keep related records or materials sealed and not publicly released.

Texas Code of Criminal Procedure Art. **38.435**

To have any evidence of invasive visual recordings seized by law enforcement be safeguarded

Texas Code of Criminal Procedure Art. **38.451**

...AT ANY TIME

Adult Survivors always have the right to:

Assert and enforce any rights either orally or in writing, individually or through an attorney

Texas Code of Criminal Procedure Art. **56A.0531**

Receive a notification of rights by an authorized form of electronic notification by email, text, phone call, or personal contact, or request it through an anonymous online portal as applicable

Texas Code of Criminal Procedure Art. **56A.0525**

Terminate your rental lease, if the listed tenant is a victim or a parent or guardian of a victim of sexual assault within the past six months

Texas Property Code **§92.0161**

Participate in the Office of the Attorney General's **Address Confidentiality Program**

Texas Code of Criminal Procedure Arts. **58.052** & **58.053**

Request a final protective order from the courts, or have the attorney representing the state request one on your behalf, and not be charged any fees related to the protective order, including for copies of an order

Texas Code of Criminal Procedure Arts. **7B.001 (a)(1)(3)**, **7B.001 (a-1)** & Texas Family Code **§81.002**

File a civil suit against the person(s) who attacked you, up to 5 years from the date of the offense

Texas Civil Practice and Remedies Code **§16.0045 (b)(1)**

Request reimbursement for **Emergency Medical Care** related to the sexual assault and provided to the victim during the 30-day period following the exam, even if you do not report to law enforcement. However, if you choose to report to law enforcement, you are eligible for **Crime Victims' Compensation**.

Texas Code of Criminal Procedure Arts. **56A.051(a)(6)(B)** & **56A.052(a)**

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You do not have to contact law enforcement to be entitled to the rights listed in this section.

ADDITIONAL

RESOURCES

GLOSSARY OF TERMS

Address Confidentiality Program
A substitute PO Box and mail forwarding service provided by the Office of the Attorney General to survivors to keep their physical address secret. This is the only kind of PO Box that can be listed on a driver s license.

Advocate
A volunteer or staff from a community based sexual assault program, that provides support for victims/survivors of sexual assault and similar crimes. Their job duties may include offering crisis intervention, safety planning, needs assessments and advocating on behalf of a survivor and/or accompanying the survivor to law enforcement interviews and forensic medical exams. They will also supply information or referrals for shelters, restraining orders, and other support services.

AIDS *Acquired Immunodeficiency Syndrome*
A spectrum of medical conditions caused by HIV. AIDS interferes with the immune system, making a person more vulnerable to other diseases and medical conditions.

Court Proceedings
Refers to formal parts of a criminal or civil case. Ex: arraignment, hearing, entering a plea, trial, sentencing, appeals, and protective order hearings.

Crime Victims' Compensation
Funds meant to reimburse victims and immediate family members, dependents, and others who assume certain financial obligations for costs related to the crime against them (ex: counseling, medical treatment, funerals, and loss of income not paid by other sources). Funds are collected from fines and fees paid in criminal cases and managed by the Office of the Attorney General.

Crime Victim Liaison
Designated person at a law enforcement agency to help survivors understand and access their rights. If a sexual assault advocate is not available to accompany a survivor during an investigative interview, the crime victim liaison may fulfill that role.

CODIS *Combined DNA Index System*
A computer software program that operates local, state, and national databases of DNA profiles from convicted offenders, unsolved crime scene evidence, and missing persons.

Deferred Adjudication
A type of punishment that is judge/court-ordered community supervision or probation that allows a defendant to avoid a formal conviction on the condition that they plead guilty and complete certain terms of their supervision.

Emergency Medical Care
Allows for any prescribed continuing medical care related to the sexual assault and provided to the survivor during the 30-day period following that examination to be reimbursed through Crime Victims' Compensation for Emergency Medical Care.

Evidence Collection
Method of collecting, documenting, and storing different items relevant to the investigation of a crime.

Medical Provider
A person or entity that provides medical care or treatment. Includes physicians and nurses who work at a hospital or a clinic that provides forensic medical exams.

HIV *Human Immunodeficiency Virus*
A virus that attacks the cells that help the body fight off infections, causing the medical condition known as AIDS. HIV is spread by contact with certain bodily fluids of an infected person, which can occur during a sexual assault.

Indicted/Indictment
A grand jury decision which allows a prosecutor s office to move the case forward to prosecution.

Medical Forensic Exam
Medical assessment, treatment and collection of evidence of a sexual assault by a certified SANE or healthcare provider. The exam includes gathering information from the patient, coordinating treatment of injuries with needed follow-up care, and documentation of biological and physical findings.

Plea Bargain
An agreement between a prosecutor and a defendant where the defendant pleads guilty in exchange for a set punishment, some of the charges against them to be dismissed or reduced, and/or for the prosecutor seeking a lesser sentence. This is the most common outcome of a case. **The Judge is not bound by the terms of the plea deal.**

Polygraph
Commonly used to detect deception and sometimes incorrectly called a "lie detector test" despite little proof it can actually detect lies.

Protective Order
A civil court order requiring an individual to stay away from a person. Can include other provisions for the safety and support of the protected party. Ex: child support, custody determinations, and others.

Pseudonym
A fake name. Victim can submit a form to request that initials or a fake name of their choosing be used in all records and court proceedings related to the offense. Ex: Jane Doe.

SANE *Sexual Assault Nurse Examiner*
A registered nurse with special training in trauma response, evidence collection, and evidence storage to conduct a sexual assault forensic medical examination.

SAFE *Sexual Assault Forensic Exam*
A forensic exam conducted by a certified SANE or a physician with specialized training to conduct a forensic medical examination.

SART *Sexual Assault Response Team*
The legally required, coordinated community response formed by Texas Counties to collaboratively address sex crimes in their community and support to survivors.

Track-Kit
The program run by the Texas Department of Public Safety that allows survivors who have had a medical forensic exam to track where the evidence currently is in the process.

Victim Assistance Coordinator
Designated person at the prosecutor s office to help survivors understand and access their rights. If a sexual assault advocate is not available to accompany a survivor during an investigative interview, the victim assistance coordinator may fulfill that role.