

## Frequently Asked Questions

### Implementation of HB 3106 (86<sup>th</sup> Legislative Session) Molly Jane's Law.

1. The bill states that *each law enforcement agency in this state shall request access from the FBI to enter information into the database (ViCAP)*. Does my agency have to register for ViCAP access if we do not investigate sexual assault cases?

Answer: HB 3106 indicates each law enforcement agency shall request ViCAP access from the FBI. If the law enforcement agency does not investigate any sexual assault cases, then there is no requirement for that agency to enter any data into ViCAP; however, if an agency investigates a sexual assault case or other sex offense, then by HB3106 (86<sup>th</sup> R) the agency must gain access to ViCAP and enter the investigative data associated with that case.

2. To meet the requirements of HB3106, what offenses must be entered into ViCAP?

Answer: Agencies must enter any sexual assault or other sex offense investigations into the ViCAP database for any investigations, in which biological evidence has been collected in an evidence collection kit. For the purposes of compliance with this law, House Bill 8 (86R) defines an evidence collection kit as the Sexual Assault Kit (SAK).

3. Is entry into ViCAP limited only to investigations for sexual assault or other sex offenses?

Answer: No. Agencies can leverage the ViCAP database for other violent crime investigations, such as Homicides, as well as, Missing Persons cases.

4. What is the definition of "other sex offense"?

Answer: The intent of HB 3106 was to utilize Section 420.003(3) GC, as adopted and enrolled with the passage of HB 8 (86R-Neave). The definition is as follows "sex offense" means an offense under Ch. 21 of the Texas Penal Code, for which biological evidence is collected in an evidence collection kit. Evidence Collection Kit is defined as a Sexual Assault Kit (SAK).

5. HB3106 is effective 09/01/2019. Will an agency be able to enter all cases regardless of the status of that case, i.e. pending or closed, into ViCAP?

Answer: Yes, agencies are required to enter their pending cases (to include cold cases) into ViCAP. Section 420.035 GC, as added by HB 3106 (86 R), applies only to a pending investigation of sexual assault or other sex offense, regardless of whether the investigation was commenced before, on, or after the effective date of 9/1/2019. Agencies may also enter closed cases; however, the entry is not required.

6. Is there a penalty should an agency not enter cases into ViCAP?

Answer: While the Department does not have any legislative authority to levy penalties against agency that fail to comply with HB3106, we will provide participation information to the legislature and the Office of the Governor. Additionally, agencies should be aware that the Department will respond to requests for information regarding an agency's participation in ViCAP. Should an agency be out of compliance, the Department will direct the requestor back to the local agency to obtain the reasons why the agency has not fulfilled the legislative mandate for access to and/or entry of their sexual assault investigations into ViCAP.

7. Is there a timeline for entry of sexual assault and other sex offense investigations into ViCAP?

Answer: Agencies should make entry in ViCAP as soon as the minimum entry requirements are met.

8. Does an agency's contribution to the National Data Exchange (N-DEx) satisfy the reporting requirement under HB3106?

Answer: No, an agency's submission of data to N-DEx does not satisfy the reporting requirement under HB3106. HB3106 specifically identified the FBI's ViCAP system for agencies to enter sexual assault and other sex offense investigations. ViCAP has been structured and optimized specifically for the entry and search of these types of crimes.