

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1821 Session of 2017

INTRODUCED BY NEUMAN, D. MILLER, CALTAGIRONE, SCHLOSSBERG, DEAN, O'BRIEN, W. KELLER, DAVIS, BARBIN, V. BROWN, D. COSTA, NEILSON, McNEILL, MURT, READSHAW, BIZZARRO, A. HARRIS, SIMS, WARD, ROZZI, CARROLL, DEASY, FRANKEL, DeLUCA, COX, GILLEN, MATZIE, CRUZ AND LONGIETTI, SEPTEMBER 26, 2017

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, DECEMBER 5, 2017

AN ACT

1 Amending the act of November 29, 2006 (P.L.1471, No.165),
2 entitled, as amended, "An act providing for a sexual assault
3 evidence collection program and for powers and duties of the
4 Department of Health and the Pennsylvania State Police;
5 establishing civil immunity; and providing for rights of
6 sexual assault victims," further providing for sexual assault
7 evidence collection program; and ~~establishing the Commission~~ <--
8 ~~on Sexual Assault Testing~~ REQUIRING THE PENNSYLVANIA STATE <--
9 POLICE TO COMPLETE AND SUBMIT A REPORT.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Section 3(a) and (c) of the act of November 29,
13 2006 (P.L.1471, No.165), known as the Sexual Assault Testing and
14 Evidence Collection Act, amended July 10, 2015 (P.L.142, No.27),
15 are amended to read:

16 Section 3. Sexual assault evidence collection program.

17 (a) Establishment.--There is hereby established a Statewide
18 sexual assault evidence collection program to promote the health
19 and safety of victims of sexual assault and to facilitate the

1 prosecution of persons accused of sexual assault. This program
2 shall be administered by the department. Under this program the
3 department shall:

4 (1) Consult with PCAR and the Pennsylvania State Police
5 to develop minimum standard requirements for all rape kits
6 used in hospitals and health care facilities in this
7 Commonwealth.

8 (2) Test and approve commercially available rape kits
9 for use in this Commonwealth.

10 (3) Review the minimum standard requirements for rape
11 kits and prior-approved rape kits every three years to assure
12 that rape kits meet state-of-the-art minimum standards.

13 (4) Consult with PCAR, the Pennsylvania State Police,
14 the International Association of Forensic Nurses, the
15 Hospital and Healthsystem Association of Pennsylvania and any
16 local SART to establish a program to train hospital, child
17 advocacy center and health care facility personnel in the
18 correct use and application of rape kits in order to maximize
19 the health and safety of the victim and the potential to
20 collect useful admissible evidence to prosecute persons
21 accused of sexual assault.

22 (5) Approve, with concurrence from the Pennsylvania
23 State Police and in consultation with PCAR, certain
24 laboratories to receive sexual assault evidence for testing
25 and analysis under subsection (c). The department shall
26 establish guidelines on the criteria that a laboratory must
27 meet to be approved under this paragraph within six months of
28 the effective date of this paragraph. Laboratories which have
29 been approved by the Federal Bureau of Investigation to
30 access CODIS or an equivalent federally administered national

1 DNA database shall be automatically approved to receive
2 sexual assault evidence for testing and analysis under
3 subsection (c).

4 (6) Establish a designated telephone number for the use
5 of health care facilities who have notified local law
6 enforcement to take possession of sexual assault evidence
7 that has not been completed within 72 hours.

8 * * *

9 (c) Submission and analysis.--The following shall apply to
10 all sexual assault evidence obtained by a health care facility,
11 at the request or consent of the victim, on or after the
12 effective date of this subsection:

13 (1) [As soon as practical] Within 12 hours of collection
14 of sexual assault evidence, the health care facility shall
15 notify the local law enforcement agency of the jurisdiction
16 where the reported sexual assault occurred. The local law
17 enforcement agency shall take possession of the sexual
18 assault evidence within 72 hours of receiving notice. If
19 local law enforcement has not taken possession of the sexual
20 assault evidence within 72 hours of notification, the health
21 care facility shall notify the department through the
22 designated telephone number. For those cases in which the
23 victim has not yet consented to testing of the evidence, the
24 evidence shall be preserved and stored for a period of no
25 less than two years, unless consent is provided before that
26 period. The Pennsylvania State Police, in consultation with
27 the Pennsylvania Chiefs of Police Association and the
28 Pennsylvania District Attorneys Association, shall establish
29 policies for local law enforcement agencies relating to the
30 storage and preservation of the evidence.

1 (2) If a victim wishes to consent to the testing of the
2 sexual assault evidence, the victim or a victim advocate
3 acting at the victim's direction shall provide written notice
4 to the local law enforcement agency and the district attorney
5 of the jurisdiction where the reported sexual assault
6 occurred.

7 (3) Within 15 days of receiving written notice of
8 consent to the testing of the sexual assault evidence, the
9 local law enforcement agency shall submit the evidence
10 awaiting testing to a laboratory approved by the department
11 for testing or analysis. The district attorney, in
12 consultation with the local law enforcement agency, shall
13 establish policies and procedures to ensure that [timely]
14 submission of the evidence [has occurred] occurs within 15
15 days of receiving notice of consent. Except for cases in
16 which the local law enforcement agency and the laboratory are
17 the same entity, each submission of evidence shall be
18 accompanied by the following signed certification:

19 This evidence is being submitted by (name of local
20 law enforcement agency) in connection with a reported
21 sexual assault and must be completed within six
22 months of receipt.

23 (4) A laboratory shall complete the testing or analysis
24 of all sexual assault evidence submitted pursuant to this
25 section within six months from the date of receipt of the
26 evidence[, if possible]. Backlogged evidence shall be
27 reported as such by the laboratory to the department and to
28 the local law enforcement agency that submitted the evidence.

29 (5) The failure of a health care facility or local law
30 enforcement agency to submit the sexual assault evidence in

1 accordance with paragraph (1) or (3) shall not alter the
2 authority of a local law enforcement agency to submit the
3 evidence or the authority of a laboratory approved by the
4 department to accept and analyze the evidence.

5 * * *

6 Section 2. The act is amended by adding a section to read:

7 ~~Section 6. Commission on Sexual Assault Testing.~~ <--

8 ~~(a) Establishment. A Commission on Sexual Assault Testing~~
9 ~~is established to annually review sexual assault testing in this~~
10 ~~Commonwealth.~~

11 ~~(b) Members. The commission shall be comprised of the~~
12 ~~following members or their designees:~~

13 ~~(1) The Secretary of Health, who shall serve as~~
14 ~~chairperson of the commission.~~

15 ~~(2) The chairperson and minority chairperson of the~~
16 ~~Judiciary Committee of the Senate.~~

17 ~~(3) The chairperson and minority chairperson of the~~
18 ~~Judiciary Committee of the House of Representatives.~~

19 ~~(4) The Commissioner of the Pennsylvania State Police.~~

20 ~~(5) The President of the Pennsylvania Chiefs of Police~~
21 ~~Association.~~

22 ~~(6) The medical examiner for a city of the first class.~~

23 ~~(7) The medical examiner for a county of the second~~
24 ~~class.~~

25 ~~(8) The Executive Director of the Hospital and~~
26 ~~Healthsystem Association of Pennsylvania.~~

27 ~~(9) The Executive Director of the Pennsylvania Coalition~~
28 ~~Against Rape or a designee.~~

29 ~~(10) A member of the Pennsylvania Chapter of the~~
30 ~~International Association of Forensic Nurses.~~

1 ~~(11) A representative from a crime lab which engages in~~
2 ~~forensic testing of rape kits.~~

3 ~~(c) Compensation and expenses. The members of the~~
4 ~~commission shall serve without compensation but shall be~~
5 ~~reimbursed for necessary and actual expenses incurred in the~~
6 ~~performance of the members' official duties.~~

7 ~~(d) Powers and duties of commission. The commission shall~~
8 ~~have the following powers and duties:~~

9 ~~(1) Review volume of sexual assault evidence submitted~~
10 ~~for testing.~~

11 ~~(2) Review volume of sexual assault evidence awaiting~~
12 ~~testing.~~

13 ~~(3) Ensure that the submission of sexual assault~~
14 ~~evidence by law enforcement agencies is in compliance with~~
15 ~~the provisions of this act.~~

16 ~~(4) Review funding requirements necessary to ensure~~
17 ~~compliance with this act and make funding recommendations~~
18 ~~necessary to ensure compliance with this act.~~

19 ~~(5) Review current practices, including interagency~~
20 ~~collaboration with law enforcement agencies and rape crisis~~
21 ~~centers, in rape kit evidence collection and provide~~
22 ~~recommendations for improvement.~~

23 ~~(e) Meetings and quorum of commission. The following apply:~~

24 ~~(1) The commission shall meet at least annually.~~

25 ~~(2) Special meetings may be called by the chairperson of~~
26 ~~the commission or upon the written request of three members.~~

27 ~~(3) A quorum shall consist of six members.~~

28 SECTION 6. REPORT BY PENNSYLVANIA STATE POLICE.

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29 IN CONSULTATION WITH THE DEPARTMENT, PCAR AND, AS NECESSARY
30 WITH LOCAL LAW ENFORCEMENT, THE PENNSYLVANIA STATE POLICE SHALL

1 COMPILE THE FOLLOWING DATA AND SUBMIT A REPORT TO THE DEPARTMENT
2 BY DECEMBER 31, 2018, AND BIANNUALLY THEREAFTER:

3 (1) THE VOLUME OF SEXUAL ASSAULT EVIDENCE SUBMITTED FOR
4 TESTING.

5 (2) THE VOLUME OF SEXUAL ASSAULT EVIDENCE AWAITING
6 TESTING.

7 (3) THE RATE OF SUBMISSION OF SEXUAL ASSAULT EVIDENCE BY
8 LAW ENFORCEMENT AGENCIES IN COMPLIANCE WITH THE PROVISIONS OF
9 THIS ACT.

10 (4) THE SPEED OF TESTING OF SEXUAL ASSAULT EVIDENCE,
11 AVERAGE WAIT TIME TO COMPLETE TESTING AND REASONS FOR ANY
12 DELAYS IN SUBMISSION OR TESTING OF SEXUAL ASSAULT EVIDENCE.

13 (5) A REVIEW OF CURRENT PRACTICES, INCLUDING INTERAGENCY
14 COLLABORATION WITH LAW ENFORCEMENT AGENCIES AND RAPE CRISIS
15 CENTERS, IN RAPE KIT EVIDENCE COLLECTION.

16 Section 3. This act shall take effect as follows:

17 (1) The following provisions shall take effect
18 immediately:

19 (i) The addition of section 3(a)(6) of the act.

20 (ii) This section.

21 (2) The remainder of this act shall take effect in 60
22 days.