

HOUSE BILL 1388

By Parkinson

AN ACT to amend Tennessee Code Annotated, Title 38, Chapter 6, Part 1; Title 39 and Title 40, relative to forensic medical examinations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 38, Chapter 6, Part 1, is amended by adding the following as a new, appropriately designated section:

38-6-____.

(a) As used in this section, “sexual assault evidence” means human biological specimen collected by a health care provider in connection with a sexual assault investigation, including, but not limited to, evidence submitted to the Tennessee bureau of investigation (TBI) or other law enforcement agency for either a serology or deoxyribonucleic acid (DNA) analysis pursuant to § 38-6-113.

(b) Law enforcement agencies that receive sexual assault evidence in connection with the investigation of a criminal case shall submit evidence from the case within ten (10) business days of receipt to a Tennessee bureau of investigation forensic laboratory or a laboratory approved and designated by the director of the Tennessee bureau of investigation. Sexual assault evidence received by a law enforcement agency within thirty (30) days prior to the effective date of this act shall be submitted pursuant to this section.

(c) All sexual assault evidence submitted pursuant to subsection (b) shall be analyzed within six (6) months after receipt of all necessary evidence and

standards by the Tennessee bureau of investigation or other designated laboratory if sufficient staffing and resources are available.

(d) The failure of a law enforcement agency to submit the sexual assault evidence collected on or after the effective date of this act within ten (10) business days after receipt shall in no way alter the authority of the law enforcement agency to:

(1) Submit the evidence to the Tennessee bureau of investigation forensic laboratory or designated laboratory to accept and analyze the evidence or specimen; or

(2) Maintain or upload the results of genetic marker grouping analysis information into a local, state, or national database in accordance with established protocol.

(e) Each submission of sexual assault evidence submitted for analysis shall be accompanied by the following signed certification: "This evidence is being submitted by (name of investigating law enforcement agency) in connection with a prior or current criminal investigation."

(f) If the Tennessee bureau of investigation receives written confirmation from the investigating law enforcement agency or district attorney general's office that a DNA record that has been uploaded into a local, state or national DNA database was not connected to a criminal investigation, the DNA record shall be expunged from the DNA database and the Tennessee bureau of investigation shall, by rule, prescribe procedures to ensure that written confirmation is sent to the submitting law enforcement agency verifying the expunction.

(g) The failure to expunge a DNA record or strictly comply with the provisions of subsection (f) shall not be grounds for challenging the validity of a database match or database information, and evidence based upon or derived from the DNA record may not be excluded by a court.

(h) By July 1, 2015, each law enforcement agency shall provide written notice to the Tennessee bureau of investigation, in a form and manner prescribed by the director of the Tennessee bureau of investigation, stating the number of sexual assault cases in the custody of the law enforcement agency that have not been previously submitted to a laboratory for analysis. Within one hundred eighty (180) days after the effective date of this act, appropriate arrangements shall be made between the law enforcement agency and the Tennessee bureau of investigation, or a laboratory approved and designated by the Director of the Tennessee bureau of investigation, to ensure that all cases that were collected prior to the effective date of this act and are, or were at the time of collection, the subject of a criminal investigation, are submitted to the Tennessee bureau of investigation, or a laboratory approved and designated by the Director of the Tennessee bureau of investigation.

(i) By January 1, 2016, the Tennessee bureau of investigation shall submit to the governor, the attorney general, the Tennessee district attorney general conference, and both houses of the General Assembly a plan for analyzing cases submitted pursuant to this section. The plan shall include, but not be limited to, a timeline for completion of analysis and a summary of the inventory received, as well as requests for funding and resources necessary to meet the established timeline, should the Tennessee bureau of investigation determine it is necessary to outsource the forensic testing of the cases submitted in accordance with this section.

(j) The Tennessee bureau of investigation is authorized to promulgate rules and regulations to effectuate the purposes of this section. All such rules and regulations shall be promulgated in accordance with title 4, chapter 5.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.