

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2489 Session of 2014

INTRODUCED BY B. BOYLE, BISHOP, MURT, V. BROWN, K. BOYLE, DAVIS, McNEILL, BRIGGS, PASHINSKI, MILLARD, THOMAS, COHEN, DeLUCA, FRANKEL, MAHONEY, BROWNLIE, W. KELLER AND McCARTER, SEPTEMBER 17, 2014

REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 17, 2014

AN ACT

1 Amending the act of November 29, 2006 (P.L.1471, No.165),
2 entitled "An act providing for a sexual assault evidence
3 collection program and for powers and duties of the
4 Department of Health and the Pennsylvania State Police; and
5 establishing civil immunity," further providing for the title
6 of the act, for definitions and for sexual assault evidence
7 collection program; and providing for rights of sexual
8 assault victims.

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

11 Section 1. The title of the act of November 29, 2006
12 (P.L.1471, No.165), known as the Sexual Assault Testing and
13 Evidence Collection Act, is amended to read:

14 AN ACT

15 Providing for a sexual assault evidence collection program and
16 for powers and duties of the Department of Health and the
17 Pennsylvania State Police; [and] establishing civil immunity;
18 and providing for rights of sexual assault victims.

19 Section 2. Section 2 of the act is amended by adding
20 definitions to read:

1 Section 2. Definitions.

2 The following words and phrases when used in this act shall
3 have the meanings given to them in this section unless the
4 context clearly indicates otherwise:

5 "Awaiting testing." With respect to sexual assault evidence,
6 evidence that meets all of the following:

7 (1) Has been collected and is in the possession of a
8 local law enforcement agency.

9 (2) Has not received DNA and other appropriate forensic
10 analyses.

11 (3) Is related to a criminal case or investigation in
12 which final disposition has not been reached.

13 "Backlogged evidence." Sexual assault evidence that is
14 awaiting testing for six months or more.

15 * * *

16 "CODIS." The Combined DNA Index System established and
17 maintained by the Federal Bureau of Investigation.

18 * * *

19 "Department." The Department of Health of the Commonwealth.

20 "Final disposition." With respect to a criminal case or
21 investigation to which sexual assault evidence relates, any of
22 the following:

23 (1) The conviction or acquittal of all suspected
24 perpetrators of the crime involved.

25 (2) A determination by the local law enforcement agency
26 in possession of the sexual assault evidence that the case is
27 unfounded.

28 (3) A declaration by the victim of the crime involved
29 that the act constituting the basis of the crime was not
30 committed.

1 "Local law enforcement agency." A police department of a
2 city, borough, incorporated town or township, a regional police
3 department or campus police.

4 * * *

5 Section 3. Section 3 of the act is amended to read:

6 Section 3. Sexual assault evidence collection program.

7 (a) Establishment.--There is hereby established a Statewide
8 sexual assault evidence collection program to promote the health
9 and safety of victims of sexual assault and to facilitate the
10 prosecution of persons accused of sexual assault. This program
11 shall be administered by the [Department of Health] department.
12 Under this program the [Department of Health] department shall:

13 (1) Consult with PCAR and the Pennsylvania State Police
14 to develop minimum standard requirements for all rape kits
15 used in hospitals and health care facilities in this
16 Commonwealth.

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

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

22 (4) Consult with PCAR, the Pennsylvania State Police,
23 the International Association of Forensic Nurses, the
24 Hospital and Healthsystem Association of Pennsylvania and any
25 local SART to establish a program to train hospital, child
26 advocacy center and health care facility personnel in the
27 correct use and application of rape kits in order to maximize
28 the health and safety of the victim and the potential to
29 collect useful admissible evidence to prosecute persons
30 accused of sexual assault.

1 (5) Approve, with concurrence from the Pennsylvania
2 State Police and in consultation with PCAR, certain
3 laboratories to receive sexual assault evidence for testing
4 and analysis under subsection (c). The department shall
5 establish guidelines on the criteria that a laboratory must
6 meet to be approved under this paragraph within six months of
7 the effective date of this paragraph. Laboratories which have
8 been approved by the Federal Bureau of Investigation to
9 access CODIS or an equivalent federally administered national
10 DNA database shall be automatically approved to receive
11 sexual assault evidence for testing and analysis under
12 subsection (c).

13 (b) Duties of Pennsylvania State Police.--

14 (1) When requested by a local law enforcement agency,
15 district attorneys or the Office of Attorney General, the
16 Pennsylvania State Police shall ensure that the analysis and
17 laboratory testing of collected evidence, including samples
18 that may contain traces of a date rape drug, are
19 accomplished. The cost of the testing or analysis shall not
20 be the responsibility of the Pennsylvania State Police.

21 (2) The Pennsylvania State Police shall include, as part
22 of existing training programs for local law enforcement
23 agencies, training to ensure that the chain of custody of all
24 rape kits is established to minimize any risk of tampering
25 with evidence included in the rape kit and to ensure that all
26 useful and proper evidence in addition to the rape kit is
27 collected at the hospital or health care facility.

28 (c) Submission and analysis.--The following shall apply to
29 all sexual assault evidence obtained by a health care facility,
30 at the request or consent of the victim, on or after the

1 effective date of this subsection:

2 (1) The health care facility shall notify the local law
3 enforcement agency of the jurisdiction where the reported
4 sexual assault occurred when the victim has consented to
5 release of the evidence. The local law enforcement agency
6 shall take possession of the evidence within 72 hours of
7 receiving notice. For those cases in which the victim has not
8 yet consented to the release, the department, in consultation
9 with the Pennsylvania State Police, shall promulgate
10 regulations relating to the storage and preservation of the
11 evidence.

12 (2) Within 15 days of receiving the sexual assault
13 evidence, the local law enforcement agency shall submit the
14 evidence awaiting testing to a laboratory approved by the
15 department for testing or analysis. Except for cases in which
16 the local law enforcement agency and the laboratory are the
17 same entity, each submission of evidence shall be accompanied
18 by the following signed certification:

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

23 (3) 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 reported
27 as such by the laboratory to the department and to the local
28 law enforcement agency that submitted the evidence.

29 (4) 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 (2) 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 (d) Inventory.--

6 (1) Within six months of the effective date of this
7 subsection, each local law enforcement agency shall provide
8 written notice to the department, in a form and manner
9 prescribed by the department, stating the number of sexual
10 assault cases under its jurisdiction before the effective
11 date of this subsection for which evidence has not been
12 submitted to a laboratory for analysis. A local law
13 enforcement agency shall make arrangements with the
14 department to ensure that all evidence awaiting testing that
15 was collected prior to the effective date of this subsection
16 is submitted to an approved laboratory for testing and
17 analysis within one year of the submission of notice to the
18 department. A laboratory shall complete the testing or
19 analysis of the evidence as soon as possible, but no later
20 than three years from the date of submission of the evidence
21 to the laboratory.

22 (2) Within six months of the effective date of this
23 subsection, each testing laboratory shall provide written
24 notice to the department, in a form and manner prescribed by
25 the department, stating the number of sexual assault cases
26 under its jurisdiction before the effective date of this
27 subsection for which evidence has not been analyzed.

28 (e) Backlogged evidence.--

29 (1) Each laboratory and local law enforcement agency
30 must annually report backlogged evidence data in their

1 possession to the department no later than January 31.

2 (2) The department shall obtain backlogged evidence data
3 from a laboratory or local law enforcement agency if the
4 laboratory or local law enforcement agency fails to report
5 its backlogged evidence as required by paragraph (1).

6 (3) Provided backlogged evidence data exists, the
7 department shall compile all of the data into a report. The
8 report shall be posted on the department's publicly
9 accessible Internet website by April 30 of each year. The
10 report shall also be issued to the General Assembly by April
11 30 of each year.

12 Section 4. The act is amended by adding a section to read:

13 Section 5. Rights of sexual assault victims.

14 (a) General rule.--In addition to the rights provided under
15 the act of November 24, 1998 (P.L.882, No.111), known as the
16 Crime Victims Act, a sexual assault victim, guardian of a sexual
17 assault victim or close relative of a deceased sexual assault
18 victim shall have all of the following rights, if requested by
19 the victim, guardian or relative:

20 (1) The right to a disclosure of information regarding
21 the submission of any evidence for forensic testing that was
22 collected from the victim during the investigation of the
23 offense, unless disclosing the information would interfere
24 with the investigation or prosecution of the offense, in
25 which case the victim, guardian or relative shall be informed
26 of the estimated date on which the information is expected to
27 be disclosed, if known.

28 (2) The right to a disclosure of information regarding
29 the status of any analysis being performed on any evidence
30 that was collected during the investigation of the offense.

1 (3) The right to be notified:

2 (i) at the time a request is submitted to a crime
3 laboratory to test and analyze any evidence that was
4 collected during the investigation of the offense;

5 (ii) at the time of the submission of a request to
6 compare any biological evidence collected during the
7 investigation of the offense with DNA profiles maintained
8 in CODIS, or any other federally administered national
9 DNA database, or a state DNA database; and

10 (iii) of whether of the comparison provided under
11 subparagraph (ii) resulted in a match, unless disclosing
12 the results would interfere with the investigation or
13 prosecution of the offense, in which case the victim,
14 guardian or relative shall be informed of the estimated
15 date on which the results are expected to be disclosed,
16 if known.

17 (b) Notification.--

18 (1) A victim, guardian or relative who requests to be
19 notified under subsection (a)(3) must provide a current
20 address and telephone number to the attorney representing the
21 Commonwealth and to the local law enforcement agency that is
22 investigating the offense. The victim, guardian or relative
23 must inform the attorney representing the Commonwealth and
24 the local law enforcement agency of any change in the address
25 or telephone number.

26 (2) A victim, guardian or relative may designate a
27 person, including an entity that provides services to victims
28 of sexual assault, to receive any notice requested under
29 subsection (a)(3).

30 (c) Definition.--As used in this section, the term "close

1 relative of a deceased sexual assault victim" means an
2 individual who:
3 (1) was the spouse of a deceased sexual assault victim
4 at the time of the victim's death; or
5 (2) is a parent or adult brother, sister or child of a
6 deceased sexual assault victim.

7 Section 5. This act shall take effect as follows:

8 (1) The following provisions shall take effect
9 immediately:

10 (i) The addition of section 3(a)(5) of the act.

11 (ii) This section.

12 (2) The remainder of this act shall take effect in 60
13 days.