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 AND CRUZ, SEPTEMBER 26, 2017

REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 26, 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.
9
10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:
12
13 Section 1. Section 3(a) and (c) of the act of November 29,
14 2006 (P.L.1471, No.165), known as the Sexual Assault Testing and
15 Evidence Collection Act, amended July 10, 2015 (P.L.142, No.27),
16 are amended to read:
17
18 Section 3. Sexual assault evidence collection program.
19 (a) Establishment.--There is hereby established a Statewide
20 sexual assault evidence collection program to promote the health
21 and safety of victims of sexual assault and to facilitate the
22 prosecution of persons accused of sexual assault. This program
shall be administered by the department. Under this program the department shall:

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

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

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

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

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

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

* * *

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

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

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

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

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

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

(5) The failure of a health care facility or local law
enforcement agency to submit the sexual assault evidence in
accordance with paragraph (1) or (3) shall not alter the
authority of a local law enforcement agency to submit the
evidence or the authority of a laboratory approved by the
department to accept and analyze the evidence.

* * *

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

Section 6. Commission on Sexual Assault Testing.

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

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

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

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

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

(4) The Commissioner of the Pennsylvania State Police.

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

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

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

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

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

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

(11) A representative from a crime lab which engages in
(c) Compensation and expenses.--The members of the commission shall serve without compensation but shall be reimbursed for necessary and actual expenses incurred in the performance of the members' official duties.

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

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

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

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

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

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

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

(1) The commission shall meet at least annually.

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

(3) A quorum shall consist of six members.

Section 3. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

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

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