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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 439 Session of  
2005

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INTRODUCED BY ORIE, STOUT, COSTA, TARTAGLIONE, TOMLINSON,  
WONDERLING, GORDNER, RAFFERTY, KITCHEN, REGOLA, GREENLEAF,  
LEMOND, STACK, BRIGHTBILL AND BOSCOLA, MARCH 22, 2005

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AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, OCTOBER 23, 2006

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AN ACT

1 Providing for a sexual assault evidence collection program and  
2 for powers and duties of the Department of Health and the  
3 Pennsylvania State Police; and establishing civil immunity.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Sexual  
8 Assault Testing and Evidence Collection Act.

9 Section 2. Definitions.

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

13 "Child advocacy center." A local public agency in this  
14 Commonwealth, or a not-for-profit entity incorporated in this  
15 Commonwealth that is tax exempt under section 501(c)(3) of the  
16 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §  
17 501(c)(3)) or any successor provision, which operates within

1 this Commonwealth, for the primary purpose of providing a child-  
2 focused, facility-based program dedicated to coordinating a  
3 formalized multidisciplinary response to suspected child abuse.  
4 At a minimum, either onsite or through a partnership with  
5 another entity or entities, a child advocacy center shall assist  
6 county agencies, investigative teams and law enforcement by  
7 providing services, including forensic interviews, medical  
8 evaluations, therapeutic interventions, victim support and  
9 advocacy, team case reviews and a system for case tracking.

10 "Date rape drug." Any sedating substance that can be used to  
11 incapacitate a victim, making that person more susceptible to  
12 sexual assault, including, but not limited to, Rohypnol,  
13 Ketamine, GHB, MDMA (Ecstasy) and their derivatives.

14 "PCAR." The Pennsylvania Coalition Against Rape.

15 "Rape kit." A sexual assault evidence collection kit.

16 "SART." The Sexual Assault Response Team.

17 "Sexual assault." Any of the offenses specified in 18  
18 Pa.C.S. Ch. 31 Subch. B (relating to definition of offenses).

19 "Victim of sexual assault" or "victim." A person who  
20 represents to a health care professional, hospital or other  
21 health care facility that the person has experienced a sexual  
22 assault.

### 23 Section 3. Sexual assault evidence collection program.

24 (a) Establishment.--There is hereby established a Statewide  
25 sexual assault evidence collection program to promote the health  
26 and safety of victims of sexual assault and to facilitate the  
27 prosecution of persons accused of sexual assault. This program  
28 shall be administered by the Department of Health. Under this  
29 program the Department of Health shall:

30 (1) Consult with PCAR and the Pennsylvania State Police

1 to develop minimum standard requirements for all rape kits  
2 used in hospitals and health care facilities in this  
3 Commonwealth.

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

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

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

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

19 ~~(1) Where local law enforcement is unable to do so, the~~ <—  
20 ~~Pennsylvania State Police shall be responsible for collecting~~  
21 ~~rape kits from hospitals, child advocacy centers and health~~  
22 ~~care facilities after the kits have been used to collect~~  
23 ~~evidence.~~

24 ~~(2)~~ (1) When requested by local law enforcement, <—  
25 district attorneys or the Office of Attorney General, the  
26 Pennsylvania State Police shall ~~be responsible for~~ ENSURE <—  
27 THAT the analysis and laboratory testing of collected  
28 evidence, including samples that may contain traces of a date  
29 rape drug, ARE ACCOMPLISHED. THE COST OF THE TESTING OR <—  
30 ANALYSIS SHALL NOT BE THE RESPONSIBILITY OF THE PENNSYLVANIA

1 STATE POLICE.

2       ~~(3)~~ (2) The Pennsylvania State Police shall ~~establish~~ <—  
3 ~~and~~ include as part of existing training programs for local  
4 law enforcement training to ensure that the chain of custody  
5 of all rape kits is established, to minimize any risk of  
6 tampering with evidence included in the rape kit and to  
7 ~~insure~~ ENSURE that all useful and proper evidence in addition <—  
8 to the rape kit is collected at the hospital or health care  
9 facility.

10 Section 4. Civil immunity.

11 A health care professional, including a physician, nurse or  
12 health care provider, and a health care institution, including a  
13 hospital, clinic, child advocacy center or health care facility,  
14 that provides evidence or information to a law enforcement  
15 officer pursuant to THIS ACT AT the request or consent of the <—  
16 victim is immune from any civil or professional liability that  
17 might arise from the action, with the exception of willful or  
18 wanton misconduct.

19 Section 20. Effective date.

20 This act shall take effect in 60 days.