
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2060 Session of
2003

INTRODUCED BY CRAHALLA, THOMAS, BEBKO-JONES, BELFANTI, CAPPELLI,
CASORIO, DENLINGER, DeWEESE, FEESE, GINGRICH, GORDNER,
HARRIS, HERMAN, KELLER, LEVDANSKY, MANN, PALLONE, REICHLEY,
SAINATO, SCAVELLO, SOLOBAY, SURRA, E. Z. TAYLOR, WALKO,
WASHINGTON, WATSON, WEBER AND YOUNGBLOOD, OCTOBER 1, 2003

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 1, 2003

AN ACT

1 Providing for minimum requirements for hospitals and health care
2 facilities which provide emergency services to victims of
3 sexual assault, for a sexual assault evidence collection
4 program and for powers and duties of the Department of Health
5 and the Pennsylvania State Police; and establishing civil
6 immunity.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Short title.

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

12 Section 2. Definitions.

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

16 "Date rape drug." Any sedating substance that can be used to
17 incapacitate a victim, making that person more susceptible to
18 sexual assault, including, but not limited to, Rohypnol,

Ketamine, GHB, MDMA (Ecstasy) and their derivatives.

"PCAR." The Pennsylvania Coalition Against Rape.

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

"SART." The Sexual Assault Response Team.

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

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

Section 3. Minimum requirements for hospitals and health care facilities providing emergency services to victims of sexual assault.

(a) General rule.--A hospital or health care facility providing emergency services to a victim of sexual assault shall, as minimum requirements for such services, provide, with the consent of the victim and as ordered by the attending physician or other health care provider, the following:

(1) Appropriate medical examinations and laboratory tests required to ensure the health, safety and welfare of the victim or which may be used as evidence in a criminal proceeding against a person accused of the sexual assault, or both. Records of the results of such examinations and tests shall be maintained by the hospital or health care facility and made available upon request of the victim of the sexual assault.

(2) Appropriate oral and written information concerning possibility of infection, sexually transmitted disease and pregnancy resulting from the sexual assault.

(3) Appropriate oral and written information concerning

1 accepted medical procedures, medication - and possible
2 contraindications of the medication - available for the
3 prevention or treatment of infection or disease resulting
4 from the sexual assault.

5 (4) Such medication as deemed appropriate by the
6 attending physician or health care provider.

7 (5) Tests to determine presence or absence of a sexually
8 transmitted disease.

9 (6) Tests to determine the presence or absence of "date
10 rape drug" traces, if deemed appropriate under the
11 circumstances of the assault.

12 (7) Oral and written instructions indicating the need
13 for a second test after sexual assault as determined by
14 standard medical practice to determine the presence or
15 absence of a sexually transmitted disease.

16 (8) Oral and written instructions regarding HIV testing.

17 (9) Appropriate counseling by trained personnel as
18 determined by the hospital or health care facility.

19 (b) Minors.--A minor who is a victim of sexual assault and
20 who seeks emergency services from a hospital or health care
21 facility shall be provided such services without the consent of
22 the parent, guardian or custodian of the minor.

23 Section 4. 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) Bulk purchase and distribution of, or arranging for
10 the manufacturer to distribute, approved rape kits to
11 hospitals or health care facilities that request them, at
12 cost.

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

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

22 (1) Where local law enforcement is unable to do so, the
23 Pennsylvania State Police shall be responsible for collecting
24 rape kits from hospitals and health care facilities after the
25 kits have been used to collect evidence.

26 (2) When requested by local law enforcement, district
27 attorneys or the Office of the Attorney General, the
28 Pennsylvania State Police shall be responsible for the
29 analysis and laboratory testing of collected evidence,
30 including samples that may contain traces of a date rape

1 drug.

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

10 Section 5. 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 or health care facility, that provides evidence
14 or information to a law enforcement officer pursuant to the
15 request or consent of the victim, is immune from any civil or
16 professional liability that might arise from the action, with
17 the exception of willful or wanton misconduct.

18 Section 6. Effective date.

19 This act shall take effect in 60 days.