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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 41

Session of  
2003

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INTRODUCED BY ORIE, HELFRICK, KUKOVICH, KITCHEN, TARTAGLIONE,  
COSTA, TOMLINSON, WOZNIAK, SCHWARTZ, M. WHITE, WONDERLING AND  
RAFFERTY, JANUARY 24, 2003

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REFERRED TO JUDICIARY, JANUARY 24, 2003

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

1 "PCAR." The Pennsylvania Coalition Against Rape.

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

3 "SART." The Sexual Assault Response Team.

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

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

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

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

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

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

29 (3) Appropriate oral and written information concerning  
30 accepted medical procedures, medication - and possible

1       contraindications of the medication - available for the  
2       prevention or treatment of infection or disease resulting  
3       from the sexual assault.

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

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

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

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

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

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

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

22      Section 4. Sexual assault evidence collection program.

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

29           (1) Consult with PCAR and the Pennsylvania State Police  
30      to develop minimum standard requirements for all rape kits

1 used in hospitals and health care facilities in this  
2 Commonwealth.

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

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

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

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

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

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

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

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

9       Section 5. Civil immunity.

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

17       Section 6. Effective date.

18       This act shall take effect in 60 days.