

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 41

Session of
2003

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

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, SEPTEMBER 30, 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,
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~~

~~contraindications of the medication—available for the prevention or treatment of infection or disease resulting from the sexual assault.~~

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

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

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

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

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

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

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

Section 4 3. Sexual assault evidence collection program.

<—

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

(1) Consult with PCAR and the Pennsylvania State Police 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~~ 4. 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~~ 20. Effective date.

<—

18 This act shall take effect in 60 days.