
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 439 Session of
2005

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

REFERRED TO JUDICIARY, MARCH 22, 2005

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

17 "PCAR." The Pennsylvania Coalition Against Rape.

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

1 "SART." The Sexual Assault Response Team.

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

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

8 Section 3. Sexual assault evidence collection program.

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

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

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

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

24 (4) Consult with PCAR, the Pennsylvania State Police,
25 the International Association of Forensic Nurses, the
26 Hospital and Healthsystem Association of Pennsylvania and any
27 local SART to establish a program to train hospital and
28 health care facility personnel in the correct use and
29 application of rape kits in order to maximize the health and
30 safety of the victim and the potential to collect useful

1 admissible evidence to prosecute persons accused of sexual
2 assault.

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

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

8 (2) When requested by local law enforcement, district
9 attorneys or the Office of Attorney General, the Pennsylvania
10 State Police shall be responsible for the analysis and
11 laboratory testing of collected evidence, including samples
12 that may contain traces of a date rape drug.

13 (3) The Pennsylvania State Police shall establish and
14 include as part of existing training programs for local law
15 enforcement training to ensure that the chain of custody of
16 all rape kits is established, to minimize any risk of
17 tampering with evidence included in the rape kit and to
18 insure that all useful and proper evidence in addition to the
19 rape kit is collected at the hospital or health care
20 facility.

21 Section 4. Civil immunity.

22 A health care professional, including a physician, nurse or
23 health care provider, and a health care institution, including a
24 hospital, clinic or health care facility, that provides evidence
25 or information to a law enforcement officer pursuant to the
26 request or consent of the victim is immune from any civil or
27 professional liability that might arise from the action, with
28 the exception of willful or wanton misconduct.

29 Section 20. Effective date.

30 This act shall take effect in 60 days.