

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 399** Session of
2019

INTRODUCED BY LANGERHOLC, FOLMER, MARTIN, BARTOLOTTA, DiSANTO,
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MARCH 11, 2019

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 11, 2019

AN ACT

1 Amending the act of November 29, 2006 (P.L.1471, No.165),
2 entitled, "An act providing for a sexual assault evidence
3 collection program and for powers and duties of the
4 Department of Health and the Pennsylvania State Police;
5 establishing civil immunity; and providing for rights of
6 sexual assault victims," further providing for sexual assault
7 evidence collection program, for rights of sexual assault
8 victims and for report by Pennsylvania State Police.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Section 3(a)(6) and (c)(1) of the act of November
12 29, 2006 (P.L.1471, No.165), known as the Sexual Assault Testing
13 and Evidence Collection Act, amended October 24, 2018 (P.L.1192,
14 No.164), are amended and the section is amended by adding a
15 subsection to read:

16 Section 3. Sexual assault evidence collection program.

17 (a) Establishment.--There is hereby established a Statewide
18 sexual assault evidence collection program to promote the health

1 and safety of victims of sexual assault and to facilitate the
2 prosecution of persons accused of sexual assault. This program
3 shall be administered by the department. Under this program the
4 department shall:

5 * * *

6 (6) Establish a designated telephone number for the use
7 of health care facilities who have notified local law
8 enforcement or the Pennsylvania State Police to take
9 possession of sexual assault evidence that has not been
10 completed within 72 hours. The following apply:

11 (i) The telephone line shall be staffed by a live
12 person during regular business hours.

13 (ii) The telephone line shall allow the health care
14 facility to leave a voicemail.

15 (iii) After receiving a report by a health care
16 facility under this paragraph, the department shall
17 contact local law enforcement or the Pennsylvania State
18 Police to take possession of the sexual assault evidence.

19 * * *

20 (c) Submission and analysis.--The following shall apply to
21 all sexual assault evidence obtained by a health care facility,
22 at the request or consent of the victim, on or after the
23 effective date of this subsection:

24 (1) Within 12 hours of collection of sexual assault
25 evidence, the health care facility shall notify the local law
26 enforcement agency of the jurisdiction where the reported
27 sexual assault occurred or the Pennsylvania State Police if
28 the jurisdiction is unknown. The local law enforcement agency
29 or the Pennsylvania State Police shall take possession of the
30 sexual assault evidence within 72 hours of receiving notice.

1 If local law enforcement or the Pennsylvania State Police has
2 not taken possession of the sexual assault evidence within 72
3 hours of notification, the health care facility shall notify
4 the department through the designated telephone number. For
5 those cases in which the victim has not yet consented to
6 testing of the evidence, the evidence shall be preserved and
7 stored for a period of no less than [two years] the duration
8 of the maximum applicable criminal statute of limitations,
9 unless consent is provided before that period. The
10 Pennsylvania State Police, in consultation with the
11 Pennsylvania Chiefs of Police Association and the
12 Pennsylvania District Attorneys Association, shall establish
13 policies for local law enforcement agencies relating to the
14 storage and preservation of the evidence, including, but not
15 limited to, the storage and preservation of evidence with
16 unknown jurisdiction AND THE PROVISION OF ANONYMOUS <--
17 SUBMISSIONS.

18 * * *

19 (c.1) Anonymous submissions.--The following shall apply to
20 sexual assault evidence obtained by a health care facility at
21 the request or with the consent of the victim who does not wish
22 to make a report to law enforcement:

23 (1) Within 12 hours of collection of the sexual assault
24 evidence, the health care facility shall notify the local law
25 enforcement agency of the jurisdiction where the reported
26 sexual assault occurred. If the victim does not wish to state
27 or does not know where the sexual assault occurred, the
28 health care facility shall notify the Pennsylvania State
29 Police. The local law enforcement agency or Pennsylvania
30 State Police shall take possession of the sexual assault

1 evidence within 72 hours of receiving notice.

2 (2) The Pennsylvania State Police shall develop a form
3 for the health care facility to attest that the victim gave
4 consent and wishes to remain anonymous. The Pennsylvania
5 State Police shall also develop a procedure to track the rape
6 kit, which permits the victim to make a report to law
7 enforcement and preserves the evidence for the duration of
8 the maximum applicable criminal statute of limitations.

9 (3) Within 15 days of receiving notice on the required
10 form of consent to the testing of the sexual assault
11 evidence, the local law enforcement agency or Pennsylvania
12 State Police shall submit the evidence awaiting testing to a
13 laboratory approved by the department for testing or
14 analysis.

15 (4) A laboratory shall complete the testing or analysis
16 of sexual assault evidence submitted under this section
17 within six months from the date of receipt of the evidence.

18 (5) The failure of a health care facility, local law
19 enforcement agency or the Pennsylvania State Police to submit
20 the sexual assault evidence in accordance with paragraph (1)
21 or (3) shall not alter the authority of a local law
22 enforcement agency, the Pennsylvania State Police or the
23 authority of a laboratory approved by the department to
24 accept and analyze the evidence.

25 * * *

26 Section 2. Section 5~~(e)~~ 5(B) AND (C) of the act ~~is~~ ARE <--
27 amended, subsection (a) is amended by adding paragraphs and the
28 section is amended by adding a subsection to read:

29 Section 5. Rights of sexual assault victims.

30 (a) General rule.--In addition to the rights provided under

1 the act of November 24, 1998 (P.L.882, No.111), known as the
2 Crime Victims Act, a sexual assault victim, guardian of a sexual
3 assault victim or close relative of a deceased sexual assault
4 victim shall have all of the following rights, if requested by
5 the victim, guardian or relative:

6 * * *

7 (4) The right to not be prevented from, or charged for,
8 receiving a medical forensic examination.

9 (5) The right to:

10 (i) subject to paragraph (6) and section 3(c)(1),
11 have a sexual assault evidence collection kit or its
12 probative contents relating to the victim preserved,
13 without charge, for the duration of the maximum
14 applicable criminal statute of limitations; and

15 (ii) be informed in writing of policies governing
16 the collection and preservation of a sexual assault
17 evidence collection kit.

18 (6) The right to, upon written request, receive written
19 notification from the appropriate official with custody of a
20 sexual assault evidence collection kit or its probative
21 contents relating to the victim not later than 60 days before
22 the date of the intended destruction or disposal of the
23 sexual assault evidence collection kit or its probative
24 contents. The appropriate official with custody of the sexual <--
25 assault evidence collection kit shall collaborate with a
26 sexual assault counselor to employ best practices when
27 notifying a victim of information pertinent to the victim.

28 (7) The right to consult with a sexual assault
29 counselor.

30 (8) The right to RECEIVE information concerning

<--

1 availability of protective orders and policies related to the
2 enforcement of protective orders.

3 (9) The right to RECEIVE information about the <--
4 availability of, and eligibility for, victim compensation and
5 restitution.

6 (10) The right to be informed of the rights under this
7 subsection. The Attorney General shall, in consultation with <--
8 the Office of Victim Advocate, the Pennsylvania State Police,
9 the Pennsylvania Chiefs of Police Association, the
10 Pennsylvania District Attorneys Association and PCAR, develop
11 a standard protocol for notifying sexual assault victims of
12 information relating to evidence gathered regarding the
13 victim. The Office of Victim Advocate shall disseminate the
14 standard protocol developed under this paragraph to law
15 enforcement agencies, rape crisis centers, sexual assault
16 counselors and health care facilities that the Office of
17 Victim Advocate determines are likely to encounter sexual
18 assault victims. The Attorney General, Pennsylvania State
19 Police, the Pennsylvania Chiefs of Police Association, the
20 Pennsylvania District Attorneys Association and Office of
21 Victim Advocate shall make the standard protocol available on
22 a publicly accessible Internet website.

23 * * *

24 (B) NOTIFICATION.-- <--

25 (1) A VICTIM, GUARDIAN OR RELATIVE WHO REQUESTS TO BE
26 NOTIFIED UNDER SUBSECTION (A) (3) OR (6) MUST PROVIDE A
27 CURRENT ADDRESS AND TELEPHONE NUMBER TO THE ATTORNEY
28 REPRESENTING THE COMMONWEALTH AND TO THE LOCAL LAW
29 ENFORCEMENT AGENCY THAT IS INVESTIGATING THE OFFENSE. THE
30 VICTIM, GUARDIAN OR RELATIVE MUST INFORM THE ATTORNEY

1 REPRESENTING THE COMMONWEALTH AND THE LOCAL LAW ENFORCEMENT
2 AGENCY OF ANY CHANGE IN THE ADDRESS OR TELEPHONE NUMBER.

3 (2) A VICTIM, GUARDIAN OR RELATIVE MAY DESIGNATE A
4 PERSON, INCLUDING AN ENTITY THAT PROVIDES SERVICES TO VICTIMS
5 OF SEXUAL ASSAULT, TO RECEIVE ANY NOTICE REQUESTED UNDER
6 SUBSECTION (A) (3) OR (6).

7 (3) THE APPROPRIATE OFFICIAL WITH CUSTODY OF THE SEXUAL
8 ASSAULT EVIDENCE COLLECTION KIT UNDER SUBSECTION (A) (6) SHALL
9 COLLABORATE WITH A SEXUAL ASSAULT COUNSELOR TO EMPLOY BEST
10 PRACTICES WHEN NOTIFYING A VICTIM OF INFORMATION PERTINENT TO
11 THE VICTIM.

12 (4) THE ATTORNEY GENERAL SHALL, IN CONSULTATION WITH THE
13 OFFICE OF VICTIM ADVOCATE, THE PENNSYLVANIA STATE POLICE, THE
14 PENNSYLVANIA CHIEFS OF POLICE ASSOCIATION, THE PENNSYLVANIA
15 DISTRICT ATTORNEYS ASSOCIATION AND THE PENNSYLVANIA COALITION
16 AGAINST RAPE, DEVELOP A STANDARD PROTOCOL FOR NOTIFYING
17 SEXUAL ASSAULT VICTIMS OF INFORMATION RELATING TO EVIDENCE
18 GATHERED REGARDING THE VICTIM. THE OFFICE OF VICTIM ADVOCATE
19 SHALL DISSEMINATE THE STANDARD PROTOCOL DEVELOPED UNDER THIS
20 PARAGRAPH TO LAW ENFORCEMENT AGENCIES, RAPE CRISIS CENTERS,
21 SEXUAL ASSAULT COUNSELORS AND HEALTH CARE FACILITIES THAT THE
22 OFFICE OF VICTIM ADVOCATE DETERMINES ARE LIKELY TO ENCOUNTER
23 SEXUAL ASSAULT VICTIMS. THE ATTORNEY GENERAL, THE
24 PENNSYLVANIA STATE POLICE, THE PENNSYLVANIA CHIEFS OF POLICE
25 ASSOCIATION, THE PENNSYLVANIA DISTRICT ATTORNEYS ASSOCIATION,
26 THE PENNSYLVANIA COALITION AGAINST RAPE AND THE OFFICE OF
27 VICTIM ADVOCATE SHALL MAKE THE STANDARD PROTOCOL AVAILABLE ON
28 A PUBLICLY ACCESSIBLE INTERNET WEBSITE.

29 (b.1) Anonymous reporters.--

30 (1) A victim who has chosen to make an anonymous report

1 may still elect to receive notification under this section.

2 (2) The form for consent for anonymous testing shall
3 include a provision for submission of contact information for
4 a victim requesting notification and a provision for <--
5 obtaining information mandated for CODIS eligibility,
6 including, but not limited to, the request for or the
7 submission of elimination samples.

8 (3) The contact information provided for the purposes of
9 notification and CODIS eligibility shall not, WITHOUT <--
10 PERMISSION FROM THE VICTIM, be used for any other purpose,
11 including contacting the victim for investigative purposes.

12 (c) [Definition.--As used in this section, the term "close]
13 Definitions.--As used in this section, the following words and
14 phrases shall have the meanings given to them in this subsection
15 unless the context clearly indicates otherwise:

16 "Close relative of a deceased sexual assault [victim" means
17 an] victim." An individual who:

18 (1) was the spouse of a deceased sexual assault victim
19 at the time of the victim's death; or

20 (2) is a parent, legal guardian or adult brother, sister
21 or child of a deceased sexual assault victim.

22 "Sexual assault counselor." As defined in 42 Pa.C.S. §
23 5945.1 (relating to confidential communications with sexual
24 assault counselors).

25 Section 3. Section 6 of the act, added October 24, 2018
26 (P.L.1192, No.164), is amended to read:

27 Section 6. Report by Pennsylvania State Police.

28 In consultation with the department, PCAR and, as necessary
29 with local law enforcement, the Pennsylvania State Police shall
30 compile the following data and submit a report to the department

1 by December 31, 2018, and [~~biannually~~] annually thereafter:

2 (1) The volume of sexual assault evidence [~~submitted~~]
3 for which testing is completed.

4 (2) The volume of backlogged sexual assault evidence
5 awaiting testing.

6 [~~(3) The rate of submission of sexual assault evidence
7 by law enforcement agencies in compliance with the provisions
8 of this act.]~~]

9 (4) The [~~speed of testing of sexual assault evidence,
10 average wait~~] average turnaround time to complete testing and
11 reasons for any delays in submission or testing of sexual
12 assault evidence.

13 (5) A review of current practices, including interagency
14 collaboration with law enforcement agencies and rape crisis
15 centers, in rape kit evidence collection every two years.

16 Section 4. This act shall take effect in 60 days.