

**SEXUAL ASSAULT TESTING AND EVIDENCE COLLECTION ACT - SEXUAL
ASSAULT EVIDENCE COLLECTION PROGRAM AND PENNSYLVANIA STATE
POLICE REPORT**

Act of Oct. 24, 2018, P.L. 1192, No. 164
Session of 2018
No. 2018-164

Cl. 35

SB 1209

AN ACT

Amending the act of November 29, 2006 (P.L.1471, No.165), entitled "An act providing for a sexual assault evidence collection program and for powers and duties of the Department of Health and the Pennsylvania State Police; establishing civil immunity; and providing for rights of sexual assault victims," further providing for sexual assault evidence collection program; and requiring the Pennsylvania State Police to complete and submit a report.

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

Section 1. Section 3(a) and (c) of the act of November 29, 2006 (P.L.1471, No.165), known as the Sexual Assault Testing and Evidence Collection Act, are amended to read:

Section 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. Under this program the department shall:

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

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

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

(4) Consult with PCAR, the Pennsylvania State Police, the International Association of Forensic Nurses, the Hospital and Healthsystem Association of Pennsylvania and any local SART to establish a program to train hospital, child advocacy center and health care facility personnel in the correct use and application of rape kits in order to maximize the health and safety of the victim and the potential to collect useful admissible evidence to prosecute persons accused of sexual assault.

(5) Approve, with concurrence from the Pennsylvania State Police and in consultation with PCAR, certain laboratories to receive sexual assault evidence for testing and analysis under subsection (c). The department shall establish guidelines on the criteria that a laboratory must meet to be approved under this paragraph within six months of the effective date of this paragraph. Laboratories which have been approved by the Federal Bureau of Investigation to access CODIS or an equivalent federally administered national DNA database shall be automatically approved to

receive sexual assault evidence for testing and analysis under subsection (c).

(6) Establish a designated telephone number for the use of health care facilities who have notified local law enforcement to take possession of sexual assault evidence that has not been completed within 72 hours.

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

(1) [As soon as practical] **Within 12 hours of collection of sexual assault evidence**, the health care facility shall notify the local law enforcement agency of the jurisdiction where the reported sexual assault occurred. The local law enforcement agency shall take possession of the sexual assault evidence within 72 hours of receiving notice. **If local law enforcement has not taken possession of the sexual assault evidence within 72 hours of notification, the health care facility shall notify the department through the designated telephone number.** For those cases in which the victim has not yet consented to testing of the evidence, the evidence shall be preserved and stored for a period of no less than two years, unless consent is provided before that period. The Pennsylvania State Police, in consultation with the Pennsylvania Chiefs of Police Association and the Pennsylvania District Attorneys Association, shall establish policies for local law enforcement agencies relating to the storage and preservation of the evidence.

(2) If a victim wishes to consent to the testing of the sexual assault evidence, the victim or a victim advocate acting at the victim's direction shall provide written notice to the local law enforcement agency and the district attorney of the jurisdiction where the reported sexual assault occurred.

(3) Within 15 days of receiving written notice of consent to the testing of the sexual assault evidence, the local law enforcement agency shall submit the evidence awaiting testing to a laboratory approved by the department for testing or analysis. The district attorney, in consultation with the local law enforcement agency, shall establish policies and procedures to ensure that [timely] submission of the evidence [has occurred] **occurs within 15 days of receiving notice of consent.** Except for cases in which the local law enforcement agency and the laboratory are the same entity, each submission of evidence shall be accompanied by the following signed certification:

This evidence is being submitted by (name of local law enforcement agency) in connection with a reported sexual assault and must be completed within six months of receipt.

(4) A laboratory shall complete the testing or analysis of all sexual assault evidence submitted pursuant to this section within six months from the date of receipt of the evidence[, if possible]. Backlogged evidence shall be reported as such by the laboratory to the department and to the local law enforcement agency that submitted the evidence.

(5) The failure of a health care facility or local law enforcement agency to submit the sexual assault evidence in accordance with paragraph (1) or (3) shall not alter the authority of a local law enforcement agency to submit the

evidence or the authority of a laboratory approved by the department to accept and analyze the evidence.

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Section 2. The act is amended by adding a section to read:

Section 6. Report by Pennsylvania State Police.

In consultation with the department, PCAR and, as necessary with local law enforcement, the Pennsylvania State Police shall compile the following data and submit a report to the department by December 31, 2018, and biannually thereafter:

(1) The volume of sexual assault evidence submitted for testing.

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

(3) The rate of submission of sexual assault evidence by law enforcement agencies in compliance with the provisions of this act.

(4) The speed of testing of sexual assault evidence, average wait time to complete testing and reasons for any delays in submission or testing of sexual assault evidence.

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

Section 3. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) The addition of section 3(a)(6) of the act.

(ii) This section.

(2) The remainder of this act shall take effect in 60 days.

APPROVED--The 24th day of October, A.D. 2018.

TOM WOLF