

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 399 Session of 2019

INTRODUCED BY LANGERHOLC, FOLMER, MARTIN, BARTOLOTTA, DiSANTO, FONTANA, PHILLIPS-HILL, KILLION, GORDNER, BREWSTER, STEFANO, SANTARSIERO, SABATINA, J. WARD, SCHWANK, YUDICHAK, TARTAGLIONE, KEARNEY, FARNESE, BROWNE AND MUTH, MARCH 11, 2019

SENATOR BAKER, JUDICIARY, AS AMENDED, MARCH 27, 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 5(c) of the act of November 29, 2006 <--~~
12 ~~(P.L.1471, No.165), known as the Sexual Assault Testing and~~
13 ~~Evidence Collection Act, is amended, subsection (a) is amended~~
14 ~~by adding paragraphs and the section is amended by adding a~~
15 ~~subsection to read:~~

16 SECTION 1. SECTION 3(A)(6) AND (C)(1) OF THE ACT OF NOVEMBER <--
17 29, 2006 (P.L.1471, NO.165), KNOWN AS THE SEXUAL ASSAULT TESTING
18 AND EVIDENCE COLLECTION ACT, AMENDED OCTOBER 24, 2018 (P.L.1192,
19 NO.164), ARE AMENDED AND THE SECTION IS AMENDED BY ADDING A

1 SUBSECTION TO READ:

2 SECTION 3. SEXUAL ASSAULT EVIDENCE COLLECTION PROGRAM.

3 (A) ESTABLISHMENT.--THERE IS HEREBY ESTABLISHED A STATEWIDE  
4 SEXUAL ASSAULT EVIDENCE COLLECTION PROGRAM TO PROMOTE THE HEALTH  
5 AND SAFETY OF VICTIMS OF SEXUAL ASSAULT AND TO FACILITATE THE  
6 PROSECUTION OF PERSONS ACCUSED OF SEXUAL ASSAULT. THIS PROGRAM  
7 SHALL BE ADMINISTERED BY THE DEPARTMENT. UNDER THIS PROGRAM THE  
8 DEPARTMENT SHALL:

9 \* \* \*

10 (6) ESTABLISH A DESIGNATED TELEPHONE NUMBER FOR THE USE  
11 OF HEALTH CARE FACILITIES WHO HAVE NOTIFIED LOCAL LAW  
12 ENFORCEMENT OR THE PENNSYLVANIA STATE POLICE TO TAKE  
13 POSSESSION OF SEXUAL ASSAULT EVIDENCE THAT HAS NOT BEEN  
14 COMPLETED WITHIN 72 HOURS. THE FOLLOWING APPLY:

15 (I) THE TELEPHONE LINE SHALL BE STAFFED BY A LIVE  
16 PERSON DURING REGULAR BUSINESS HOURS.

17 (II) THE TELEPHONE LINE SHALL ALLOW THE HEALTH CARE  
18 FACILITY TO LEAVE A VOICEMAIL.

19 (III) AFTER RECEIVING A REPORT BY A HEALTH CARE  
20 FACILITY UNDER THIS PARAGRAPH, THE DEPARTMENT SHALL  
21 CONTACT LOCAL LAW ENFORCEMENT OR THE PENNSYLVANIA STATE  
22 POLICE TO TAKE POSSESSION OF THE SEXUAL ASSAULT EVIDENCE.

23 \* \* \*

24 (C) SUBMISSION AND ANALYSIS.--THE FOLLOWING SHALL APPLY TO  
25 ALL SEXUAL ASSAULT EVIDENCE OBTAINED BY A HEALTH CARE FACILITY,  
26 AT THE REQUEST OR CONSENT OF THE VICTIM, ON OR AFTER THE  
27 EFFECTIVE DATE OF THIS SUBSECTION:

28 (1) WITHIN 12 HOURS OF COLLECTION OF SEXUAL ASSAULT  
29 EVIDENCE, THE HEALTH CARE FACILITY SHALL NOTIFY THE LOCAL LAW  
30 ENFORCEMENT AGENCY OF THE JURISDICTION WHERE THE REPORTED

1       SEXUAL ASSAULT OCCURRED OR THE PENNSYLVANIA STATE POLICE IF  
2       THE JURISDICTION IS UNKNOWN. THE LOCAL LAW ENFORCEMENT AGENCY  
3       OR THE PENNSYLVANIA STATE POLICE SHALL TAKE POSSESSION OF THE  
4       SEXUAL ASSAULT EVIDENCE WITHIN 72 HOURS OF RECEIVING NOTICE.  
5       IF LOCAL LAW ENFORCEMENT OR THE PENNSYLVANIA STATE POLICE HAS  
6       NOT TAKEN POSSESSION OF THE SEXUAL ASSAULT EVIDENCE WITHIN 72  
7       HOURS OF NOTIFICATION, THE HEALTH CARE FACILITY SHALL NOTIFY  
8       THE DEPARTMENT THROUGH THE DESIGNATED TELEPHONE NUMBER. FOR  
9       THOSE CASES IN WHICH THE VICTIM HAS NOT YET CONSENTED TO  
10      TESTING OF THE EVIDENCE, THE EVIDENCE SHALL BE PRESERVED AND  
11      STORED FOR A PERIOD OF NO LESS THAN TWO YEARS, UNLESS CONSENT  
12      IS PROVIDED BEFORE THAT PERIOD. THE PENNSYLVANIA STATE  
13      POLICE, IN CONSULTATION WITH THE PENNSYLVANIA CHIEFS OF  
14      POLICE ASSOCIATION AND THE PENNSYLVANIA DISTRICT ATTORNEYS  
15      ASSOCIATION, SHALL ESTABLISH POLICIES FOR LOCAL LAW  
16      ENFORCEMENT AGENCIES RELATING TO THE STORAGE AND PRESERVATION  
17      OF THE EVIDENCE, INCLUDING, BUT NOT LIMITED TO, THE STORAGE  
18      AND PRESERVATION OF EVIDENCE WITH UNKNOWN JURISDICTION.

19           \* \* \*

20      (C.1) ANONYMOUS SUBMISSIONS.--THE FOLLOWING SHALL APPLY TO  
21      SEXUAL ASSAULT EVIDENCE OBTAINED BY A HEALTH CARE FACILITY AT  
22      THE REQUEST OR WITH THE CONSENT OF THE VICTIM WHO DOES NOT WISH  
23      TO MAKE A REPORT TO LAW ENFORCEMENT:

24           (1) WITHIN 12 HOURS OF COLLECTION OF THE 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. IF THE VICTIM DOES NOT WISH TO STATE  
28      OR DOES NOT KNOW WHERE THE SEXUAL ASSAULT OCCURRED, THE  
29      HEALTH CARE FACILITY SHALL NOTIFY THE PENNSYLVANIA STATE  
30      POLICE. THE LOCAL LAW ENFORCEMENT AGENCY OR PENNSYLVANIA

1 STATE POLICE SHALL TAKE POSSESSION OF THE SEXUAL ASSAULT  
2 EVIDENCE WITHIN 72 HOURS OF RECEIVING NOTICE.

3 (2) THE PENNSYLVANIA STATE POLICE SHALL DEVELOP A FORM  
4 FOR THE HEALTH CARE FACILITY TO ATTEST THAT THE VICTIM GAVE  
5 CONSENT AND WISHES TO REMAIN ANONYMOUS. THE PENNSYLVANIA  
6 STATE POLICE SHALL ALSO DEVELOP A PROCEDURE TO TRACK THE RAPE  
7 KIT, WHICH PERMITS THE VICTIM TO MAKE A REPORT TO LAW  
8 ENFORCEMENT AND PRESERVES THE EVIDENCE FOR 20 YEARS OR THE  
9 DURATION OF THE MAXIMUM APPLICABLE CRIMINAL STATUTE OF  
10 LIMITATIONS, WHICHEVER IS SHORTER.

11 (3) WITHIN 15 DAYS OF RECEIVING NOTICE ON THE REQUIRED  
12 FORM OF CONSENT TO THE TESTING OF THE SEXUAL ASSAULT  
13 EVIDENCE, THE LOCAL LAW ENFORCEMENT AGENCY OR PENNSYLVANIA  
14 STATE POLICE SHALL SUBMIT THE EVIDENCE AWAITING TESTING TO A  
15 LABORATORY APPROVED BY THE DEPARTMENT FOR TESTING OR  
16 ANALYSIS.

17 (4) A LABORATORY SHALL COMPLETE THE TESTING OR ANALYSIS  
18 OF SEXUAL ASSAULT EVIDENCE SUBMITTED UNDER THIS SECTION  
19 WITHIN SIX MONTHS FROM THE DATE OF RECEIPT OF THE EVIDENCE.

20 (5) THE FAILURE OF A HEALTH CARE FACILITY, LOCAL LAW  
21 ENFORCEMENT AGENCY OR THE PENNSYLVANIA STATE POLICE TO SUBMIT  
22 THE SEXUAL ASSAULT EVIDENCE IN ACCORDANCE WITH PARAGRAPH (1)  
23 OR (3) SHALL NOT ALTER THE AUTHORITY OF A LOCAL LAW  
24 ENFORCEMENT AGENCY OR THE AUTHORITY OF A LABORATORY APPROVED  
25 BY THE DEPARTMENT TO ACCEPT AND ANALYZE THE EVIDENCE.

26 \* \* \*

27 SECTION 2. SECTION 5(C) OF THE ACT IS AMENDED, SUBSECTION  
28 (A) IS AMENDED BY ADDING PARAGRAPHS AND THE SECTION IS AMENDED  
29 BY ADDING A SUBSECTION TO READ:

30 Section 5. Rights of sexual assault victims.

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

7 \* \* \*

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

10 (5) The right to:

11 (i) subject to paragraph (6) and section 3(c)(1),  
12 have a sexual assault evidence collection kit or its  
13 probative contents relating to the victim preserved,  
14 without charge, for 20 YEARS OR the duration of the <--  
15 maximum applicable CRIMINAL statute of limitations, <--  
16 WHICHEVER IS SHORTER; and

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

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

30 (7) The right to consult with a sexual assault

1 counselor.

2 (8) The right to information concerning availability of  
3 protective orders and policies related to the enforcement of  
4 protective orders.

5 (9) The right to information about the availability of,  
6 and eligibility for, victim compensation and restitution.

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

24 \* \* \*

25 (b.1) Anonymous reporters.--

26 (1) A victim who has chosen to make an anonymous report  
27 may still elect to receive notification under this section.

28 (2) The form for consent for anonymous testing shall  
29 include a provision for submission of contact information for  
30 a victim requesting notification.

1           (3) The contact information provided for the purposes of  
2           notification shall not be used for any other purpose,  
3           including contacting the victim for investigative purposes.

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

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

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

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

14           "Sexual assault counselor." As defined in 42 Pa.C.S. §  
15           5945.1 (relating to confidential communications with sexual  
16           assault counselors).

17           SECTION 3. SECTION 6 OF THE ACT, ADDED OCTOBER 24, 2018           <--  
18           (P.L.1192, NO.164), IS AMENDED TO READ:

19           SECTION 6. REPORT BY PENNSYLVANIA STATE POLICE.

20           IN CONSULTATION WITH THE DEPARTMENT, PCAR AND, AS NECESSARY  
21           WITH LOCAL LAW ENFORCEMENT, THE PENNSYLVANIA STATE POLICE SHALL  
22           COMPILE THE FOLLOWING DATA AND SUBMIT A REPORT TO THE DEPARTMENT  
23           BY DECEMBER 31, 2018, AND [BIANNUALLY] ANNUALLY THEREAFTER:

24           (1) THE VOLUME OF SEXUAL ASSAULT EVIDENCE [SUBMITTED]  
25           FOR WHICH TESTING IS COMPLETED.

26           (2) THE VOLUME OF BACKLOGGED SEXUAL ASSAULT EVIDENCE  
27           AWAITING TESTING.

28           [(3) THE RATE OF SUBMISSION OF SEXUAL ASSAULT EVIDENCE  
29           BY LAW ENFORCEMENT AGENCIES IN COMPLIANCE WITH THE PROVISIONS  
30           OF THIS ACT.]

