

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 AMENDED ON THIRD CONSIDERATION, APRIL 9, 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
19 and safety of victims of sexual assault and to facilitate the

1 prosecution of persons accused of sexual assault. This program
2 shall be administered by the department. Under this program the
3 department shall:

4 * * *

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

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

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

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

18 * * *

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

23 (1) Within 12 hours of collection of 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 or the Pennsylvania State Police if
27 the jurisdiction is unknown. The local law enforcement agency
28 or the Pennsylvania State Police shall take possession of the
29 sexual assault evidence within 72 hours of receiving notice.

30 If local law enforcement or the Pennsylvania State Police has

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

16 * * *

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

21 (1) Within 12 hours of collection of the sexual assault
22 evidence, the health care facility shall notify the local law
23 enforcement agency of the jurisdiction where the reported
24 sexual assault occurred. If the victim does not wish to state
25 or does not know where the sexual assault occurred, the
26 health care facility shall notify the Pennsylvania State
27 Police. The local law enforcement agency or Pennsylvania
28 State Police shall take possession of the sexual assault
29 evidence within 72 hours of receiving notice.

30 (2) The Pennsylvania State Police shall develop a form

1 for the health care facility to attest that the victim gave
2 consent and wishes to remain anonymous. The Pennsylvania
3 State Police shall also develop a procedure to track the rape
4 kit, which permits the victim to make a report to law
5 enforcement and preserves the evidence for 20 years or the <--
6 duration of the maximum applicable criminal statute of
7 limitations, whichever is shorter. <--

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

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

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

24 * * *

25 Section 2. Section 5(c) of the act is amended, subsection
26 (a) is amended by adding paragraphs and the section is amended
27 by adding a subsection to read:

28 Section 5. Rights of sexual assault victims.

29 (a) General rule.--In addition to the rights provided under
30 the act of November 24, 1998 (P.L.882, No.111), known as the

1 Crime Victims Act, a sexual assault victim, guardian of a sexual
2 assault victim or close relative of a deceased sexual assault
3 victim shall have all of the following rights, if requested by
4 the victim, guardian or relative:

5 * * *

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

8 (5) The right to:

9 (i) subject to paragraph (6) and section 3(c)(1),
10 have a sexual assault evidence collection kit or its
11 probative contents relating to the victim preserved,
12 without charge, for 20 years or the duration of the <--
13 maximum applicable criminal statute of limitations, <--
14 whichever is shorter; 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 information concerning availability of

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

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

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

22 * * *

23 (b.1) Anonymous reporters.--

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

26 (2) The form for consent for anonymous testing shall
27 include a provision for submission of contact information for
28 a victim requesting notification AND A PROVISION FOR <--
29 OBTAINING INFORMATION MANDATED FOR CODIS ELIGIBILITY,
30 INCLUDING, BUT NOT LIMITED TO, THE REQUEST FOR OR THE

1 SUBMISSION OF ELIMINATION SAMPLES.

2 (3) The contact information provided for the purposes of
3 notification AND CODIS ELIGIBILITY shall not be used for any <--
4 other purpose, including contacting the victim for
5 investigative purposes.

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

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

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

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

16 "Sexual assault counselor." As defined in 42 Pa.C.S. §
17 5945.1 (relating to confidential communications with sexual
18 assault counselors).

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

21 Section 6. Report by Pennsylvania State Police.

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

26 (1) The volume of sexual assault evidence [submitted]
27 for which testing is completed.

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

30 [(3) The rate of submission of sexual assault evidence

1 by law enforcement agencies in compliance with the provisions
2 of this act.]

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

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

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