

SENATE No. 1134

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia S. Creem

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to enhancing sexual assault evidence kit collection.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>
<i>Rady Mom</i>	<i>18th Middlesex</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>

SENATE No. 1134

By Ms. Creem, a petition (accompanied by bill, Senate, No. 1134) of Cynthia S. Creem, Rady Mom, Tricia Farley-Bouvier, Carolyn C. Dykema and other members of the General Court for legislation relative to enhancing sexual assault evidence kit collection. Public Health.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to enhancing sexual assault evidence kit collection.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1: Section 18³/₄ of chapter 6A of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by inserting the following new subsection:-

3 (10) to develop and implement, in consultation with the department of public health,
4 statewide policies and procedures, including a uniform protocol, for transporting sexual assault
5 evidence collection kits directly from hospitals to appropriate testing facilities.

6 SECTION 2: Chapter 29 of the General Laws is hereby amended by inserting the
7 following after section 2KKKK the following new section:-

8 Section 2LLLL: There shall be established and set upon the books of the commonwealth
9 a separate fund to be known as the Massachusetts Sexual Assault Nurse Examiner (SANE) Trust
10 Fund to be expended, without further appropriation, by the department of public health. The
11 commissioner of public health, or a designee, shall, as trustee, administer the fund. The fund
12 shall consist of revenues collected by the commonwealth including: (i) any revenue from

13 appropriations or other monies authorized by the general court and specifically designated to be
14 credited to the fund; (ii) grants; (iii) bequests; (iv) gifts or contributions of cash or securities; (v)
15 fees, fees-for-service reimbursements, or other assessments collected by the Massachusetts
16 SANE program; and (vi) contributions of services or property in kind from persons or other
17 government, nongovernmental, quasi-governmental or local government entities made for the
18 purpose of supporting, enhancing or expanding the Massachusetts SANE Program as outlined in
19 section 220 of chapter 111 of the General Laws. The department may incur expenses and the
20 comptroller may certify for payment amounts in anticipation of expected receipts, but no
21 expenditure shall be made from the fund that would cause the fund to be in deficit at the close of
22 the fiscal year. Monies deposited in the fund that are unexpended at the end of the fiscal year
23 shall not revert to the General Fund. Nothing in this section should be interpreted to supplant the
24 commonwealth's obligation to support forensic evidence collection.

25 SECTION 3: Section 97B of chapter 41 of the General Laws, is hereby amended by
26 striking, after the words "shall be kept" in line 27 the following language:- "for a period of at
27 least six months upon the written request of the victim at the time the evidence is obtained upon
28 forms provided to such victim by the hospital" and inserting the following new language:-"until
29 the expiration of the applicable statute of limitations."

30 SECTION 4: Section 220 of chapter 111 of the General Laws, as so appearing, is hereby
31 amended by inserting the following new definitions:-

32 "Acute care hospital" shall mean a hospital subject to licensing pursuant to sections 51
33 through 53, inclusive, of chapter 111, but shall not include the following:

34 (1) Psychiatric Hospitals as defined in 42 CFR 412.23(a);

35 (2) Rehabilitation Hospitals as defined in 42 CFR 412.23(b);

36 (3) Alcohol/Drug Hospitals as defined in 42 CFR 412.23(c); and

37 (4) Chronic Care Hospitals.

38 “Program Protocols”, the most current program protocols prepared by the Massachusetts
39 Sexual Assault Nurse Examiner program for the treatment and examination of both pediatric and
40 adult sexual assault victims.

41 “SANE designated site,” a site designed by the department to have Massachusetts SANE
42 nurses contracted or otherwise employed by the department to respond directly to victims of
43 sexual assault at said designated site.

44 SECTION 5: Said section 220 is hereby amended by inserting, after the words “site
45 designation.” in line 47 the following words:-“The department shall examine the regional needs
46 of the commonwealth for sexual assault nurse examiner services and for sexual assault
47 counselors trained as medical advocates and expand sexual assault nurse examiner services into
48 underserved regions. The department shall also ensure, subject to appropriation, that adequate
49 numbers of sexual assault nurse examiners are made available in all regions of the
50 Commonwealth to meet the needs of victims.”

51 SECTION 6: Said section 220 is hereby amended by inserting, at the end thereof, the
52 following new subsections:-

53 (i) Acute care hospitals shall make program protocols available both electronically and in
54 hard-copy to sexual assault nurse examiners and all other nurses and physicians collecting
55 evidence for inclusion in a sexual assault evidence collection kit or toxicology kit.

56 (j) In consultation with the advisory board, the department shall promulgate regulations
57 requiring all teaching hospitals and academic medical centers, as defined by the center for health
58 information and analysis hospital cohorts, to be SANE designated sites.

59 (k) In consultation with the advisory board, the department shall promulgate regulations
60 requiring appropriate emergency department personnel, as defined by the department, at all acute
61 care hospitals that treat sexual assault victims, but are not SANE designated sites, to receive, at a
62 minimum, bi-annual training by the department in the program protocols.

63 (l) In consultation with the advisory board, the department shall amend all applicable
64 contracts or memoranda of agreement to require appropriate emergency department personnel, as
65 defined by the department, at all SANE designated sites to receive, at a minimum, bi-annual
66 training by the department in the program protocols.

67 (m) In consultation with the advisory board, the department shall establish a fee structure
68 relative to SANE site designation and SANE operated training programs. Fees shall be payable
69 to the SANE Trust Fund established in section 2LLLL of chapter 29. Nothing in this section
70 should be interpreted to supplant the commonwealth's obligation to support forensic evidence
71 collection.

72 (n) The department shall publicly report on hospital training and designation compliance
73 rates pursuant to this section.

74 SECTION 7: Notwithstanding the provisions of any general or special law to the
75 contrary, the executive office of public safety and security is hereby authorized and directed to
76 conduct a comprehensive study related to sexual assault evidence collection kits. Said study
77 shall include, but not be limited to, a study on the (i) effectiveness and cost of a system allowing

78 for the online completion of provider sexual crime reports, with electronic notification, after each
79 said report is submitted, to said office and to the local police department; (ii) feasibility and cost
80 of a web-based tracking system to allow agencies involved in the response to and prosecution of
81 rapes and sexual assault to track sexual assault evidence collection kits, pediatric sexual assault
82 evidence collection kits, and toxicology kits using a machine-scannable bar code number
83 uniquely assigned to each rape kit, so their status may be known at all times; (iii) feasibility and
84 cost of an automated 24-hour hotline for sexual assault survivors to determine the status and
85 location of their kits; (iv) effectiveness and cost of having designated state employees or state
86 police transport rape kits from hospitals to the appropriate testing facility; (iv) feasibility and cost
87 of any necessary statutory or regulatory changes required to allow for transport of sexual assault
88 evidence collection kits and toxicology kits by mail, delivery service, or private courier. Prior to
89 issuing a report, the executive office shall hold a hearing to allow for public comment. A report
90 of the study's findings shall be filed with the clerks of the house of representatives and senate by
91 December 31, 2016.

92 SECTION 8: The executive office of public safety and security shall develop and
93 implement a pilot program utilizing a rapid DNA service protocol to assist in the collection and
94 analysis of forensic evidence from alleged victims of sexual assault. In developing such a
95 program, the executive office of public safety and security shall examine existing programs,
96 including the program implemented in California, as a model.