

2022 -- H 7079 SUBSTITUTE A

LC003681/SUB A/2

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO HEALTH AND SAFETY -- SEXUAL ASSAULT EVIDENCE KITS

Introduced By: Representatives Edwards, Kazarian, Cassar, McEntee, Cortvriend,
Bennett, Fogarty, Craven, Caldwell, and Ajello

Date Introduced: January 12, 2022

Referred To: House Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 97

4 SEXUAL ASSAULT EVIDENCE KITS

5 **23-97-1. Short title.**

6 This chapter shall be known and may be cited as the "Sexual Assault Evidence Kits Act".

7 **23-97-2. Definitions.**

8 For purposes of this chapter:

9 (1) "Accredited laboratory" means a DNA laboratory that is formally recognized and meets
10 or exceeds a list of standards, including the Federal Bureau of Investigation (FBI) director's quality
11 assurance standards, to perform specific tests, established by a nonprofit professional association
12 of persons actively involved in forensic science that is nationally recognized within the forensic
13 community in accordance with the provisions of the federal DNA Identification Act, 42 USC §
14 14132, or other applicable law.

15 (2) "Anonymous kit" or "unreported kit" means a kit that is collected from a victim of
16 sexual assault through a medical forensic examination where the victim elects, at the time of the
17 examination, not to report the sexual assault offense to a law enforcement agency.

18 (3) "Combined DNA Index System (CODIS)" means the FBI's program of support for
19 criminal justice DNA databases as well as the software used to run the databases.

1 (4) "DNA analysis" means the isolation of autosomal deoxyribonucleic acid (DNA) to
2 develop DNA profiles that are eligible for entry into the Combined DNA Index System (CODIS),
3 DNA samples taken from evidence containing DNA from a known individual or of unknown origin,
4 the determination of the DNA test results, and entry of resulting DNA profiles into CODIS.

5 (5) "Law enforcement agency" means a local police department, the Rhode Island state
6 police, the office of the attorney general, or a federal, state, or local governmental body that
7 enforces criminal laws and maintains employees who have a statutory power of arrest.

8 (6) "Medical forensic examination" means an examination of a sexual assault patient by a
9 health care provider, ideally one who has specialized education and clinical experience in the
10 collection of forensic evidence and treatment of these patients. Such examination may include
11 gathering information from the patient for the medical forensic history, an examination,
12 coordinating treatment of injuries, documentation of biological and physical findings, collection of
13 evidence from the patient, information, treatment, and referrals for sexually transmitted infections,
14 pregnancy, suicidal ideation, alcohol and substance abuse, and other non-acute medical concerns,
15 and follow-up as needed to provide additional healing, treatment, or collection of evidence.

16 (7) "Newly collected kit" means a kit that has been collected after time frames and
17 requirements for testing kits were enacted.

18 (8) "Previously untested sexual assault evidence kits" means human biological specimen(s)
19 collected by a health care provider during a forensic medical examination from the victim of a
20 sexually-oriented criminal offense that has not been through DNA analysis and has been held
21 untested by medical facilities, law enforcement agencies, or accredited laboratories.

22 (9) "Sexual assault evidence kit" or "kit" means a collection of human biological
23 specimen(s) collected by a health care provider during a medical forensic examination from the
24 victim of a sex offense.

25 (10) "Status" means the location, date and time when the kit is transferred within the chain
26 of custody.

27 **23-97-3. Annual statewide inventory of sexual assault evidence kits.**

28 (a) Within one hundred eighty (180) days of the effective date of this chapter, and annually
29 thereafter, all medical facilities, law enforcement agencies, crime laboratories, and any other
30 facilities that receive, maintain, store, or preserve sexual assault evidence kits (kits) shall submit a
31 report containing the following information to the department of health:

32 (1) The total number of all untested kits in possession of each medical facility, law
33 enforcement agency, crime laboratory, and any other facility that receives, maintains, stores, or
34 preserves kits.

1 (2) For each kit the facility shall provide:

2 (i) The category of the kit:

3 (A) Whether sexual assault was reported to law enforcement; or

4 (B) Whether the victim chose not to file a report with law enforcement.

5 (ii) The status of the kit:

6 (A) For kits of medical facilities: The date when the kit was reported to law enforcement,

7 and the date when the kit was delivered to the state health laboratory;

8 (B) For kits of a law enforcement agency: The date the kit was picked up from a medical

9 facility, the date when the kit was submitted to a crime laboratory, and for any kit not submitted to

10 a crime lab, the reason the kit was not submitted;

11 (C) For kits belonging to another jurisdiction: The date that the jurisdiction was notified

12 and the date the kit was picked up; and

13 (D) For kits in possession of crime laboratories: The date the kit was received from law

14 enforcement and from which agency the kit was received; the date when the kit was tested; the date

15 when the resulting information was entered into CODIS or other relevant state or local DNA

16 databases, and the reasoning, if applicable, that a kit was not tested or a DNA profile was not

17 created.

18 (3) The total number of kits in possession of the entity for more than thirty (30) days or

19 beyond the statutory time frame for kit submission and testing.

20 (4) The total number of kits destroyed and the reason for destruction.

21 (5) The department of health shall compile the data from the reports in a summary report.

22 The summary report shall include a list of all agencies or facilities that failed to participate in the

23 preparation of the report. The annual summary report shall be made publicly available on the

24 department of health's website, and shall be submitted to the governor, the speaker of the house of

25 representatives, the president of the senate, and the office of the attorney general.

26 (b) Within ninety (90) days of the effective date of this chapter, all previously untested kits

27 in medical facilities or other facilities that collect kits shall be submitted to the appropriate law

28 enforcement agency.

29 (c) Within one hundred eighty (180) days of the effective date of this chapter, each law

30 enforcement agency shall submit all previously untested kits, including those sexual assaults past

31 the statute of limitations, to the accredited public crime laboratory or laboratories.

32 (1) Anonymous or unreported kits are exempted from this section unless the victim files a

33 report and consents to the testing of their kit.

34 (2) Anonymous and unreported kits shall be safely stored by the state health laboratory in

1 a manner that preserves evidence for a duration of ten (10) years or the applicable statute of
2 limitations, whichever is greater.

3 (3) Victims who do not file a report with law enforcement at the time the kit was collected
4 shall not negate their right to report the crime and have the kit tested in the future.

5 (d) An accredited public crime laboratory shall test all previously untested sexual assault
6 kits within ninety (90) days of receipt from the local law enforcement agency.

7 (e) Testing shall be pursued to develop autosomal DNA profiles that are eligible for entry
8 into the Combined DNA Index System (CODIS) and local DNA databases.

9 (1) With the goal of generating a CODIS-eligible DNA profile, if a laboratory is unable to
10 obtain an autosomal CODIS-eligible DNA profile, the laboratory should evaluate the case to
11 determine if any other DNA-typing results could be used for investigative purposes.

12 (2) In cases where testing has resulted in a DNA profile, the laboratory shall enter the full
13 profile into the Combined DNA Index System Database (CODIS) and local DNA databases. The
14 average completion rate for this analysis and classification shall not exceed ninety (90) days.

15 (3) If an accredited public crime laboratory is unable to meet the deadline set forth in
16 subsection (e)(2) of this section, the kits shall be outsourced for testing to an accredited private
17 crime laboratory.

18 **23-97-4. Mandatory submission and testing requirements for newly collected sexual**
19 **assault evidence kits.**

20 (a) Medical facilities and all other facilities that conduct medical forensic examinations
21 shall notify the appropriate law enforcement agency immediately, and no later than twenty-four
22 (24) hours after the collection of a new sexual assault evidence kit.

23 (b) Hospitals and state laboratories shall work together to ensure reported kits are
24 transferred from the hospital to the laboratory within ten (10) days of the kit being collected.

25 (1) Anonymous kits and unreported kits are exempted from this section unless the victim
26 files a report and consents to the testing of their kit. Anonymous kits shall be safely stored by the
27 state laboratory in a manner that preserves evidence for a duration of ten (10) years or the applicable
28 statute of limitations, whichever is greater;

29 (2) Victims who do not file a report with law enforcement at the time the kit was collected
30 shall not negate their right to report the crime and have their kit tested in the future.

31 (3) Kits associated with a reported crime that is uncharged or unsolved shall be preserved
32 by the applicable law enforcement agency for fifty (50) years or the length of the applicable statute
33 of limitations, whichever is greater.

34 (c) Law enforcement shall contact the department of health when a victim of sexual assault

1 files a police complaint. At that point, the department of health shall begin the forensic analysis.
2 An accredited public crime laboratory shall test all kits within thirty (30) days of receipt.

3 (1) Testing shall be pursued to develop autosomal DNA profiles that are eligible for entry
4 into the Combined DNA Index System (CODIS) and local DNA databases, with the goal of
5 generating a CODIS-eligible DNA profile. If a laboratory is unable to obtain an autosomal CODIS-
6 eligible DNA profile, the laboratory shall evaluate the case to determine if any other DNA-typing
7 results could be used for investigative purposes.

8 (2) In cases where testing has resulted in a DNA profile, the laboratory shall enter the full
9 profile into the Combined DNA Index System Database (CODIS) and local DNA databases. The
10 average completion rate for this analysis and classification shall not exceed ninety (90) days.

11 (3) If an accredited public crime laboratory is unable to meet the deadline specified in
12 subsection (c)(2) of this section, untested kits shall be outsourced to an accredited private crime
13 laboratory.

14 **23-97-5. Victims' rights to notice.**

15 (a) All victims of sexual assault shall have the right to:

16 (1) Consult with a sexual assault victim advocate on a confidential and privileged basis
17 during the forensic medical exam, and during any interview with law enforcement, prosecutors, or
18 defense attorneys. Waiving the right to a victim advocate in one instance does not negate this right.
19 The medical facility, law enforcement officer, or prosecutor shall inform the victim of his or her
20 rights prior to commencement of a medical forensic examination or law enforcement interview,
21 and shall not continue unless such right is knowingly and voluntarily waived;

22 (2) Information, upon request, of the location, testing date, and testing results of a kit;
23 whether a DNA profile was obtained from the kit; whether there are matches to DNA profiles in
24 state or federal databases; and the estimated destruction date for the kit, all in a manner of
25 communication designated by the victim;

26 (3) Be informed when there is any change in the status of their case, including if the case
27 has been closed or reopened;

28 (4) Receive written notification, upon request, from the appropriate official with custody
29 of a victim's sexual assault evidence kit not later than sixty (60) days before the date of the intended
30 destruction or disposal;

31 (5) Be granted further preservation of the kit or its probative contents;

32 (6) Designate a person of the victim's choosing to act as a recipient of the information
33 provided under this section;

34 (7) Be informed about how to file a report with law enforcement and have their kit tested

1 in the future, if the victim shall decide not to file a report at the time the kit is first collected;

2 (8) Be informed about the right to apply for victim compensation; and

3 (9) Be provided with the contact information for the designated liaison at the time that a
4 kit is collected.

5 (b) A survivor retains all the rights contained in this chapter at all times, regardless of
6 whether the survivor agrees to participate in any investigation, prosecution, or generally, in the
7 criminal justice system of any court of this state and regardless of whether the survivor consents to
8 a medical evidentiary or physical examination to collect sexual assault forensic evidence.

9 (c)(1) The attorney general, in consultation with the victim service providers and victim
10 advocacy organizations, shall promulgate and publish a sexual assault victim's bill of rights for
11 purposes of informing sexual offense victims of their rights under state law. Such bill of rights shall
12 be prominently published on the department of the attorney general's website, in plain, easy to
13 understand language and in at least the ten (10) most common languages spoken in this state, and
14 distributed to hospitals as a document which shall be provided to every presenting sexual offense
15 victim. The department of the attorney general may update the bill of rights as necessary to reflect
16 changes in state law and more accurately explain the law.

17 (2) In advance or at the beginning of the medical forensic examination and law enforcement
18 interview, medical professionals, victim advocates, law enforcement officers, or prosecutors shall
19 provide victims with the bill of rights as created by the attorney general identifying their rights
20 under law, including the rights granted pursuant to this section.

21 (d) The attorney general, in coordination with victim service providers, shall ensure that
22 trauma-informed, survivor-focused, statewide policies and procedures for law enforcement shall
23 be adopted concerning contact with victims and notification concerning kits.

24 SECTION 2. This act shall take effect upon passage.

=====
LC003681/SUB A/2
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- SEXUAL ASSAULT EVIDENCE KITS

1 This act would require any entity that receives, maintains, stores or preserves sexual assault
2 evidence kits to submit a report to the department of health, annually, setting forth the total number
3 of untested kits in possession of such entity. This act would further provide victims of sexual assault
4 offenses with certain rights pertaining to the sexual assault evidence kit. This act would also direct
5 the attorney general, in consultation with victim advocacy organizations, to promulgate and publish
6 a sexual assault victim's bill of rights.

7 This act would take effect upon passage.

=====
LC003681/SUB A/2
=====