



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 998 (Substitute S-1)
Sponsor: Senator Rick Jones
Committee: Judiciary

Date Completed: 8-13-14

CONTENT

The bill would create a new statute to do the following:

- Create the Sexual Assault Evidence Kit Tracking and Reporting Commission within the Domestic Violence Prevention and Treatment Board.
- Require the Commission to develop guidelines and a plan to implement a systems to track sexual assault evidence kits, audit submission of the kits, and audit untested kits, as well as secure electronic access by victims to information gathered from them.
- Require the Commission to develop guidelines and a plan to safeguard confidentiality of the information.
- Require the Commission to oversee implementation of the plans, subject to the appropriation of sufficient funding.
- Require the Commission to submit a report on the plans to certain legislative committees and the Senate and House Fiscal Agencies.
- Appropriate \$25,000 in fiscal year 2013-14 and each subsequent fiscal year for the Department of Human Services to implement the proposed act.
- Abolish the Commission either two years after the required report was submitted, if funds were not appropriated, or upon final implementation of the plans developed, if funds were appropriated.

"Sexual assault evidence kit" would mean that term as defined in the Public Health Code (a standardized set of equipment and written procedures approved by the Department of State Police that have been designed to be administered to an individual principally for the purpose of gathering evidence of sexual conduct, which evidence is of the type offered in court by the Forensic Science Division of the Department for prosecuting a case of criminal sexual conduct).

Commission

The bill would create the Sexual Assault Evidence Kit Tracking and Reporting Commission within the Domestic Violence Prevention and Treatment Board (in the Department of Human Services). Members of the Commission would include the Director of the Michigan Department of State Police (MSP), or his or her designee from within the MSP, and the Attorney General, or his or her designee from within the Department of Attorney General.

The Commission also would include the following individuals or their representatives:

- The president of the Prosecuting Attorneys Association of Michigan.
- The president of the Michigan Association of Chiefs of Police.

- The president of the Michigan Sheriff's Association.
- The executive director of the Michigan Domestic and Sexual Violence Prevention and Treatment Board.
- The executive director of the Michigan Coalition to End Domestic and Sexual Violence.
- The president of the Michigan Health and Hospital Association.
- The president of the Michigan Chapter of the International Association of Forensic Nurses.
- The chairperson of the Michigan Crime Victim Services Commission.

In addition, Commission members would include the following:

- A representative appointed by the Governor from the Executive office.
- One State Senator, from the majority party, appointed by the Senate Majority Leader.
- One State Senator, from the minority party, appointed by the Senate Minority Leader.
- One State Representative, from the majority party, appointed by the Speaker of the House.
- One State Representative, from the minority party, appointed by the House Minority Leader.

The legislators first appointed to the Commission would have to be appointed within 90 days after the bill's effective date. If there were a vacancy on the Commission, the appropriate entity have to make a new appointment in the same manner as the original appointment.

Within 30 days after the bill's effective date, the MSP Director or his or her designee, or the executive director of the Michigan Domestic and Sexual Violence Prevention and Treatment Board, would have to call the first meeting of the Commission. At that meeting, the Commission would have to elect a chairperson and other officers it considered necessary or appropriate. The Commission then would have to meet quarterly, or more frequently at the call of the chairperson or if requested by at least seven members.

The Commission would be subject to the Open Meetings Act and its documents would be subject to the Freedom of Information Act.

Duties & Responsibilities

The Commission would have to develop guidelines and a plan to implement the following:

- A uniform statewide system to track the location, lab submission status, completion of forensic testing, and storage of sexual assault evidence kits, and to determine who would have access to the information.
- A uniform system to audit the proper submission of sexual assault evidence kits as mandated in the Sexual Assault Kit Evidence Submission Act.
- A secure electronic access that would allow a victim, or his or her designee, to receive or have access to information about the location, lab submission status, and storage of sexual assault evidence that was gathered from him or her, as long as disclosure did not impede or compromise an ongoing investigation.
- A uniform system to audit untested sexual assault evidence kits that had been released by the victims and were collected 30 days before the effective date of the Sexual Assault Kit Evidence Submission Act.

The Commission also would be required to do all of the following:

- Develop guidelines and a plan to safeguard confidentiality of the information and limited disclosure.
- Recommend sources of public and private funding to implement the plans developed under these provisions.

- Recommend any changes to law or policy needed to support implementation of the plans.

The Commission would have to submit a report on the plans to the following:

- The standing committees of the Senate and House of Representatives with jurisdiction over issues pertaining to the prosecution of criminal sexual conduct.
- The Senate and House Appropriations subcommittees on the MSP and the Attorney General.
- The Senate and House Fiscal Agencies.

The Commission would be required to perform the responsibilities described above within 365 days after its initial meeting.

Subject to appropriation of sufficient funding, the Commission also would have to oversee implementation of the plans developed.

Appropriation

The bill would appropriate \$25,000 for the Department of Human Services for the 2013-14 fiscal year and each subsequent fiscal year. The funds could be used only to implement and carry out the purposes of the proposed act.

Abolishment

If funds were not appropriated to implement the plans developed, the Commission would be abolished two years after the date on which the required report was submitted.

If funds were appropriated to implement the plans developed, the Commission would be abolished upon the final implementation of the plans.

BACKGROUND

Public Act 227 of 2014 enacted the Sexual Assault Kit Evidence Submission Act to do the following:

- Require a health care facility to notify a law enforcement agency within 24 hours after obtaining consent to release sexual assault kit evidence.
- Require a health care facility, if it does not obtain consent, to store sexual assault kit evidence for at least one year.
- Require a law enforcement agency that receives notice of consent to take possession of the evidence within 14 days.
- Require an investigating law enforcement agency to submit sexual assault kit evidence to the Michigan State Police, or another accredited laboratory, for analysis within 14 days after it takes possession.
- Require sexual assault kit evidence to be analyzed within 90 days after the MSP receives the evidence.
- Require DNA profiles from analyzed sexual assault kit evidence to be uploaded into databases specified by the MSP.
- Require a law enforcement agency that intends to destroy or dispose of sexual assault kit evidence before the applicable statute of limitations expires to notify the victim at least 60 days before doing so.

The Act will take effect on the 91st day following the adjournment of the 2014 legislative session.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would appropriate \$25,000 to the Department of Human Services to operate the Commission. The funds would be used for expenditures, including travel reimbursements for members and the procurement of materials and other supplies.

Fiscal Analyst: Frances Carley

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.