

**SUBSTITUTE FOR
SENATE BILL NO. 1004**

A bill to create a sexual assault victim's access to justice act; to provide for certain victim's rights in sexual assault cases; to require certain notifications; and to require certain duties of certain state and local officials and agencies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "sexual assault victim's access to justice act".

3 Sec. 2. As used in this act:

4 (a) "Forensic laboratory" means a DNA laboratory that has
5 received formal recognition that it meets or exceeds a list of
6 standards, including the FBI director's quality assurance
7 standards, to perform specific tests, established by a nonprofit

1 professional association of persons actively involved in forensic
2 science that is nationally recognized within the forensic community
3 in accordance with the provisions of the federal DNA identification
4 act, 42 USC 14132, or subsequent laws.

5 (b) "Investigating law enforcement agency" means the local,
6 county, or state law enforcement agency with the primary
7 responsibility for investigating an alleged sexual assault offense
8 case and includes the employees of that agency. Investigating law
9 enforcement agency includes a law enforcement agency of a community
10 college or university if that law enforcement agency of a community
11 college or university is responsible for collecting sexual assault
12 evidence.

13 (c) "Law enforcement agency" means the local, county, or state
14 law enforcement agency and includes the employees of that agency.
15 Law enforcement agency includes a law enforcement agency of a
16 community college or university.

17 (d) "Sexual assault evidence kit" means that term as defined
18 in section 21527 of the public health code, 1978 PA 368, MCL
19 333.21527.

20 (e) "Sexual assault offense" means a violation or attempted
21 violation of sections 520b to 520g of the Michigan penal code, 1931
22 PA 328, MCL 750.520b to 750.520g.

23 (f) "Sexual assault victim" means an individual subjected to a
24 sexual assault offense and, for the purposes of making
25 communications and receiving notices under this act, a person
26 designated by the sexual assault victim under section 4.

27 Sec. 3. (1) Within 24 hours after the initial contact between

1 a sexual assault victim and the investigating law enforcement
2 agency, that investigating law enforcement agency shall give the
3 sexual assault victim a written copy of, or access to, the
4 following information:

5 (a) Contact information for a local community-based sexual
6 assault services program, if available.

7 (b) Notice that he or she can have a sexual assault evidence
8 kit administered and that he or she cannot be billed for this
9 examination as provided in section 5a of 1976 PA 223, MCL 18.355a.

10 (c) Notice that he or she may choose to have a sexual assault
11 evidence kit administered without being required to participate in
12 the criminal justice system or cooperate with law enforcement as
13 provided in section 5a of 1976 PA 223, MCL 18.355a.

14 (d) Notice of the right to request information under sections
15 5 and 6.

16 (e) Notice of the right to request a personal protection order
17 as provided in section 2950 or 2950a of the revised judicature act
18 of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a.

19 (2) The information and notice provided under subsection (1)
20 shall also include the notice required under the William Van
21 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to
22 780.834.

23 (3) The Michigan domestic and sexual violence prevention and
24 treatment board, in consultation with law enforcement, shall
25 develop a sample notice card for sexual assault victims. The card
26 shall be made available electronically to Michigan law enforcement
27 agencies no later than June 30, 2015.

1 (4) Beginning not later than September 30, 2015, law
2 enforcement agencies shall provide sexual assault victims with the
3 information required in subsection (1).

4 Sec. 4. (1) When a sexual assault victim requests information
5 from an investigating law enforcement agency under section 5 or 6,
6 the law enforcement agency shall respond by telephone, in writing
7 mailed to the sexual assault victim, or by electronic mail, as
8 specified by the sexual assault victim. If the victim does not
9 specify, the law enforcement agency may respond using any of the
10 methods described in this subsection. If new or updated information
11 becomes available after a response is given to a sexual assault
12 victim's request, the law enforcement agency may, but is not
13 required to, provide the new or updated information to the sexual
14 assault victim in the absence of a new request from him or her.

15 (2) This section does not require the law enforcement agency
16 to communicate with the sexual assault victim regarding information
17 if he or she does not specifically make a request to the law
18 enforcement agency.

19 (3) A sexual assault victim may designate an alternative
20 person to receive the information requested by the sexual assault
21 victim, and the law enforcement agency shall then direct any
22 information to that designated person.

23 (4) To receive information under this section, the sexual
24 assault victim shall provide the law enforcement agency with the
25 name, address, telephone number, and electronic mail address of the
26 person to whom the information should be provided.

27 (5) The law enforcement agency may require a sexual assault

1 victim's request for information under this section to be in
2 writing. If a sexual assault victim has submitted a written request
3 for information, subsequent requests for updated information are
4 not required to be in writing.

5 Sec. 5. Upon request by a sexual assault victim to the
6 investigating law enforcement agency, the sexual assault victim
7 shall be provided with the following information if available and
8 if the disclosure does not impede or compromise an ongoing
9 investigation:

10 (a) The contact information for the officer investigating the
11 case.

12 (b) The current status of the case.

13 (c) Whether the case has been submitted to the office of the
14 prosecuting attorney for review.

15 (d) If the case has been closed and the documented reason for
16 closure.

17 Sec. 6. (1) Upon request by a sexual assault victim to the
18 investigating law enforcement agency for information about DNA
19 testing results, the sexual assault victim shall be provided with
20 the following information if available and if the disclosure does
21 not impede or compromise an ongoing investigation:

22 (a) When the sexual assault evidence kit was submitted to the
23 forensic laboratory.

24 (b) Whether a DNA profile of a suspect was obtained from the
25 processing of evidence in the sexual assault case.

26 (c) Whether a DNA profile of a suspect has been entered into
27 any data bank designed or intended to be used for the retention or

1 comparison of case evidence.

2 (d) Whether there is a match between the DNA profile of a
3 suspect obtained in the sexual assault case to any DNA profile
4 contained in any data bank designed or intended to be used for the
5 retention or comparison of case evidence.

6 (2) If a sexual assault victim is provided with information
7 about forensic testing results, he or she shall also be provided
8 with a copy of, or access to, the information handout described in
9 subsection (3).

10 (3) No later than September 30, 2015, the Michigan domestic
11 and sexual violence prevention and treatment board, in consultation
12 with the department of state police, shall develop an informational
13 handout for sexual assault victims that explains the meaning of
14 possible forensic testing results. The informational handout shall
15 be made available electronically to Michigan law enforcement
16 agencies.

17 Sec. 7. This act does not create a cause of action for
18 monetary damages against the state, a county, a municipality, or
19 any of their agencies, instrumentalities, or employees.

20 Enacting section 1. This act takes effect April 1, 2015.