SEXUAL ASSAULT VICTIM'S ACCESS TO JUSTICE ACT

Act 319 of 2014

AN ACT 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.

History: 2014, Act 319, Eff. Apr. 1, 2015

The People of the State of Michigan enact:

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752.951 Short title.

Sec. 1.

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

History: 2014, Act 319, Eff. Apr. 1, 2015

752.952 Definitions.

Sec. 2.

As used in this act:

(a) "Forensic laboratory" means a DNA laboratory that has received formal recognition that it meets or exceeds a list of standards, including the FBI director's quality assurance standards, to perform specific tests, established by a nonprofit professional association of persons actively involved in forensic science that is nationally recognized within the forensic community in accordance with the provisions of the federal DNA identification act, 42 USC 14132, or subsequent laws.

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

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

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

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

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

History: 2014, Act 319, Eff. Apr. 1, 2015

752.953 Information and notice to be provided to sexual assault victim.

Sec. 3.

(1) Within 24 hours after the initial contact between a sexual assault victim and the investigating law enforcement agency, that investigating law enforcement agency shall give the sexual assault victim a written copy of, or access to, the following information:

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

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

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

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

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

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

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

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

History: 2014, Act 319, Eff. Apr. 1, 2015

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752.954 Sexual assault victim's request for information; requirements.

Sec. 4.

(1) When a sexual assault victim requests information from an investigating law enforcement agency under section 5 or 6, the law enforcement agency shall respond by telephone, in writing mailed to the sexual assault victim, or by electronic mail, as specified by the sexual assault victim. If the sexual assault victim is a program participant who requests that the information be mailed to his or her address designated by the department of the attorney general, the law enforcement agency shall respond in writing mailed to the sexual assault victim at that address. If the victim does not specify, the law enforcement agency may respond using any of the methods described in this subsection. If new or updated information becomes available after a response is given to a sexual assault victim's request, the law enforcement agency may, but is not required to, provide the new or updated information to the sexual assault victim in the absence of a new request from him or her.

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

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

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

(5) The law enforcement agency may require a sexual assault victim's request for information under this section to be in writing. If a sexual assault victim has submitted a written request for information, subsequent requests for updated information are not required to be in writing.

(6) As used in subsection (1), "program participant" means that term as defined in section 3 of the address confidentiality program act.

History: 2014, Act 319, Eff. Apr. 1, 2015 ;-- Am. 2020, Act 274, Imd. Eff. Dec. 29, 2020

752.955 Information provided to sexual assault victim.

Sec. 5.

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

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

(b) The current status of the case.

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

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

History: 2014, Act 319, Eff. Apr. 1, 2015

752.956 Information about forensic testing results; providing copy to sexual assault victim; informational handout.

Sec. 6.

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

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

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

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

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

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

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

History: 2014, Act 319, Eff. Apr. 1, 2015

752.957 Cause of action for monetary damages.

Sec. 7.

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

History: 2014, Act 319, Eff. Apr. 1, 2015

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