SEXUAL ASSAULT KIT EVIDENCE SUBMISSION ACT

Act 227 of 2014

AN ACT to create the sexual assault kit evidence submission act; to provide for the collection of sexual assault kit evidence; to prescribe the powers and duties of certain state and local government departments and agencies; to establish certain procedures regarding the collection, handling, and disposition of sexual assault kit evidence; and to prohibit the exclusion of sexual assault kit evidence under certain circumstances.

History: 2014, Act 227, Eff. Mar. 31, 2015

The People of the State of Michigan enact:

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752.931 Short title.

Sec. 1.

This act shall be known and may be cited as the "sexual assault kit evidence submission act".

History: 2014, Act 227, Eff. Mar. 31, 2015

752.932 Definitions.

Sec. 2.

As used in this act:

(a) "Accredited 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) "Analyzed" means evaluating items for the presence of a body fluid, cellular material, or DNA followed by the testing of suitable items at forensic DNA regions for comparison purposes.

(c) "Department" means the department of state police, including its forensic science division.

(d) "Health care facility" includes a hospital, clinic, or urgent care center that is regulated under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, and any other facility that is authorized to provide sexual assault medical forensic exams under that act.

(e) "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.

(f) "Sexual assault kit evidence" means evidence collected from the administration of a sexual assault evidence kit under section 21527 of the public health code, 1978 PA 368, MCL 333.21527.

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

(h) "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.

(i) "Victim" means, for the purposes of making communications and receiving notices under this act, an individual who was subjected to a sexual assault offense.

History: 2014, Act 227, Eff. Mar. 31, 2015

752.933 Release of sexual assault kit evidence; consent; notice to law enforcement agency; storage policy.

Sec. 3.

(1) A health care facility that has obtained written consent to release sexual assault kit evidence shall notify the investigating law enforcement agency, if known, or the law enforcement agency having jurisdiction in that portion of the local unit of government in which the medical facility is located of that fact within 24 hours after obtaining that consent.

(2) A health care facility that has not obtained written consent to release any sexual assault kit evidence shall inform the individual from whom sexual assault kit evidence was obtained of its sexual assault kit evidence storage policy. The information provided under this subsection shall include a statement of the period for which that evidence will be stored before it is destroyed and how the individual can have the evidence released to the investigating law enforcement agency at a later date. Any sexual assault kit evidence that is not released to a law enforcement agency under this section shall be stored for a minimum of 1 year before it is destroyed.

History: 2014, Act 227, Eff. Mar. 31, 2015

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752.934 Notice of release of sexual assault kit evidence; possession; assignment of criminal complaint number; submission to laboratory or department; analysis; uploading of DNA profiles to databases; failure to comply with requirements of act.

Sec. 4.

(1) A law enforcement agency that receives notice under section 3 that sexual assault kit evidence has been released to that law enforcement agency shall take possession of the sexual assault kit evidence from the health care facility within 14 days after receiving that notice.

(2) If a law enforcement agency described in subsection (1) determines that the alleged sexual assault occurred within the jurisdiction of another law enforcement agency and that it does not otherwise have jurisdiction over that assault, that law enforcement agency shall notify the other law enforcement agency of that fact within 14 days after receiving the kit from the health care facility that collected the sexual assault kit evidence.

(3) A law enforcement agency that receives notice under subsection (2) shall take possession of the sexual assault kit evidence from the other law enforcement agency within 14 days after receiving that notice.

(4) The investigating law enforcement agency that takes possession of any sexual assault kit evidence shall assign a criminal complaint number to that evidence in the manner required by that agency and shall submit that evidence to the department or another accredited laboratory for analysis within 14 days after that law enforcement agency takes possession of that evidence under this section. Sexual assault kit evidence that was received by a law enforcement agency within 30 days before the effective date of this act shall also be submitted to the department or other accredited laboratory as provided in this section.

(5) Each submission of sexual assault kit evidence for analysis under this act shall be accompanied by the criminal complaint number required under subsection (4).

(6) All sexual assault kit evidence submitted to the department or an accredited laboratory on or after the effective date of this act shall be analyzed within 90 days after all of the necessary evidence is received by the department or other accredited laboratory, provided that sufficient staffing and resources are available to do so.

(7) The DNA profiles of all sexual assault kit evidence analyzed under this section on or after the effective date of this act shall be uploaded only into those databases at the state and national levels specified by the department.

(8) The failure of a law enforcement agency to take possession of sexual assault kit evidence as provided in this act or to submit that evidence to the department or other accredited laboratory within the time prescribed under this act does not alter the authority of the law enforcement agency to take possession of that evidence or to submit that evidence to the department or other accredited laboratory under this act and does not alter the authority of the department or other accredited laboratory to accept and analyze the evidence or to upload the DNA profile obtained from that evidence into state and national DNA databases under this act.

(9) The failure to comply with the requirements of this act does not constitute grounds in any criminal proceeding for challenging the validity of a database match or of any database information, and any evidence of that DNA record shall not be excluded by a court on those grounds.

(10) A person accused or convicted of committing a crime against the victim has no standing to object to any failure to comply with the requirements of this act, and the failure to comply with the requirements of this act is not grounds for setting aside the conviction or sentence.

History: 2014, Act 227, Eff. Mar. 31, 2015

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752.935 Destruction or disposal of sexual assault kit evidence; notice to victim.

Sec. 5.

If a law enforcement agency intends to destroy or otherwise dispose of any sexual assault kit evidence in a sexual assault offense case before the expiration for the limitation period applicable under section 24 of chapter VII of the code of criminal procedure, 1927 PA 175, MCL 767.24, and its destruction does not otherwise conflict with the requirements of section 16 of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.16, the law enforcement agency with the primary responsibility for investigating the case shall notify the victim of that intention in writing at least 60 days before the evidence is destroyed or otherwise disposed of.

History: 2014, Act 227, Eff. Mar. 31, 2015