S T A T E O F N E W Y O R K

6430--B

Cal. No. 1176

I N S E N A T E

January 12, 2016

Introduced by Sens. HANNON, CROCI, FUNKE, GALLIVAN, GOLDEN, LAVALLE, LITTLE, MARCHIONE, MURPHY, RITCHIE, SERINO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the public health law and the executive law, in relation to the reporting, processing and secure transport of sexual offense evidence kits; and providing for the repeal of certain provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The section heading of section 2805-i of the public health law, as amended by chapter 504 of the laws of 1994, is amended to read as follows:

Treatment AND REPORTING of sexual offense victims and maintenance of evidence in a sexual offense.

S 2. Subdivision 1 of section 2805-i of the public health law is amended by adding a new paragraph (d) to read as follows:

(D) REPORTING QUARTERLY TO THE DEPARTMENT ON THE DISPOSITION OR TRANSFER OF ALL SEXUAL OFFENSE EVIDENCE KITS. THE REPORT SHALL DETAIL, AT A MINIMUM, HOW MANY SUCH KITS UNDER THE HOSPITAL'S CARE WERE TRANSFERRED TO LAW ENFORCEMENT OR FORENSIC LABORATORIES, TO WHOM THEY WERE TRANSFERRED AND THE DATE UPON WHICH THEY WERE TRANSFERRED.

S 3. The executive law is amended by adding two new sections 837-s and 837-t to read as follows:

S 837-S. PROCESSING OF SEXUAL OFFENSE EVIDENCE KITS. 1. THE FOLLOWING REQUIREMENTS SHALL APPLY TO ALL SEXUAL OFFENSE EVIDENCE KITS COLLECTED AND SURRENDERED TO POLICE AGENCIES PURSUANT TO SECTION TWENTY-EIGHT HUNDRED FIVE-I OF THE PUBLIC HEALTH LAW:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD13490-04-6

(A) ALL SEXUAL OFFENSE EVIDENCE KITS SURRENDERED TO POLICE AGENCIES AFTER THE EFFECTIVE DATE THIS SECTION SHALL BE SUBMITTED TO AN ACCREDITED FORENSIC LABORATORY DESIGNATED BY THE DIVISION FOR ANALYSIS WITHIN TEN DAYS OF RECEIPT AND SUCH FORENSIC LABORATORY RECEIVING SEXUAL OFFENSE EVIDENCE KITS SHALL ATTEMPT TO DEVELOP COMBINED DNA INDEX SYSTEM (CODIS) ELIGIBLE PROFILES FROM THE EVIDENCE RECEIVED AND REPORT THE RESULTS TO THE SUBMITTING POLICE AGENCY AND LOCAL DISTRICT ATTORNEY WITHIN NINETY DAYS OF RECEIPT OF THE SEXUAL OFFENSE EVIDENCE KIT;

(B) ALL SEXUAL OFFENSE EVIDENCE KITS RECEIVED BY POLICE AGENCIES PRIOR TO THE EFFECTIVE DATE OF THIS SECTION THAT HAVE NOT PREVIOUSLY BEEN SURRENDERED TO A FORENSIC LABORATORY SHALL BE SUBMITTED TO AN ACCREDITED FORENSIC LABORATORY WITHIN ONE HUNDRED EIGHTY DAYS OF SUCH EFFECTIVE DATE, AND SUCH LABORATORY SHALL ATTEMPT TO DEVELOP COMBINED DNA INDEX SYSTEM (CODIS) ELIGIBLE PROFILES FROM SUCH EVIDENCE WITHIN ONE HUNDRED TWENTY DAYS OF RECEIPT; AND

(C) ALL POLICE AGENCIES SHALL REPORT TO THE DIVISION QUARTERLY ON ALL SEXUAL OFFENSE EVIDENCE KITS IN THEIR POSSESSION. THE FIRST REPORT, WHICH SHALL BE SUBMITTED NO LATER THAN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, AND REPORTS FILED THEREAFTER SHALL INCLUDE AT A MINIMUM THE DATES ON WHICH THE SEXUAL OFFENSE EVIDENCE KITS WERE RECEIVED BY THE POLICE AGENCY PURSUANT TO THE PUBLIC HEALTH LAW, TRANSMITTED TO A FORENSIC LABORATORY AND THE DATES ON WHICH THE RESULTS WERE REPORTED BY THE LABORATORY FOR EACH OF THE SEXUAL OFFENSE EVIDENCE KITS THEY RECEIVED.

2. THE FAILURE OF A PUBLIC SERVANT TO FOLLOW SUCH PROCEDURE SHALL NOT CONSTITUTE A LEGAL BASIS TO SUPPRESS EVIDENCE.

3. THE DIVISION SHALL ENSURE THAT ALL POLICE AGENCIES ARE EDUCATED AND AWARE OF THE REQUIREMENTS ESTABLISHED UNDER THIS SECTION.

S 837-T. SECURE TRANSPORT OF SEXUAL OFFENSE EVIDENCE KITS. THE DIVISION, IN CONJUNCTION WITH THE DIVISION OF STATE POLICE AND MUNICIPAL POLICE AGENCIES, SHALL DEVELOP A SYSTEM TO COORDINATE THE TRANSPORTATION OF SEXUAL OFFENSE EVIDENCE KITS TO AND FROM LABORATORIES ON A REGULARLY SCHEDULED BASIS, CONSISTENT WITH THE REQUIREMENTS ESTABLISHED IN SECTION EIGHT HUNDRED THIRTY-SEVEN-S OF THIS ARTICLE, WHICH SHALL REDUCE DUPLICATION AND COSTS ASSOCIATED WITH EACH POLICE AGENCY MAINTAINING THE CHAIN OF CUSTODY OF EVIDENCE WHILE TRANSPORTING SUCH EVIDENCE KITS IN A TIMELY MANNER. NOTHING IN THIS SECTION SHALL BE DEEMED TO REQUIRE A POLICE AGENCY TO ADOPT SUCH A SYSTEM FOR THE TRANSPORTATION OF SEXUAL OFFENSE EVIDENCE KITS.

S 4. This act shall take effect September 1, 2016, and the provision of paragraph (c) of subdivision 1 of section 837-s of the executive law, as added by section three of this act, shall expire and be deemed repealed March 31, 2020.