

10067

I N A S S E M B L Y

May 10, 2016

Introduced by M. of A. SIMOTAS -- read once and referred to the Committee on Codes

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

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

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

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

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

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

13 S 3. The executive law is amended by adding two new sections 837-s and  
14 837-t to read as follows:

15 S 837-S. PROCESSING OF SEXUAL OFFENSE EVIDENCE KITS. 1. SUBJECT TO  
16 APPROPRIATIONS MADE FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING  
17 REQUIREMENTS SHALL APPLY TO ALL SEXUAL OFFENSE EVIDENCE KITS COLLECTED  
18 AND SURRENDERED TO POLICE AGENCIES PURSUANT TO SECTION TWENTY-EIGHT  
19 HUNDRED FIVE-I OF THE PUBLIC HEALTH LAW:

20 (A) ALL SEXUAL OFFENSE EVIDENCE KITS SURRENDERED TO POLICE AGENCIES  
21 SHALL BE SUBMITTED TO A FORENSIC LABORATORY DESIGNATED BY THE DIVISION  
22 FOR ANALYSIS WITHIN TEN DAYS OF RECEIPT;

23 (B) THE FORENSIC LABORATORY RECEIVING SEXUAL OFFENSE EVIDENCE KITS  
24 SHALL DEVELOP COMBINED DNA INDEX SYSTEM (CODIS) ELIGIBLE PROFILES FROM  
25 THE EVIDENCE RECEIVED AND REPORT THE RESULTS TO THE SUBMITTING POLICE  
26 AGENCY AND LOCAL DISTRICT ATTORNEY WITHIN NINETY DAYS OF RECEIPT;

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

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1 (C) ALL SEXUAL OFFENSE EVIDENCE KITS RECEIVED BY POLICE AGENCIES PRIOR  
2 TO THE EFFECTIVE DATE OF THIS SECTION SHALL BE SUBMITTED TO A FORENSIC  
3 LABORATORY WITHIN ONE HUNDRED EIGHTY DAYS OF SUCH EFFECTIVE DATE, AND  
4 SUCH LABORATORIES SHALL DEVELOP COMBINED DNA INDEX SYSTEM (CODIS) ELIGI-  
5 BLE PROFILES FROM SUCH EVIDENCE WITHIN ONE HUNDRED TWENTY DAYS OF  
6 RECEIPT; AND

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

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

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

19 S 837-T. SECURE TRANSPORT OF SEXUAL OFFENSE EVIDENCE KITS. THE DIVI-  
20 SION, IN CONJUNCTION WITH THE DIVISION OF STATE POLICE AND MUNICIPAL  
21 POLICE AGENCIES, SHALL DEVELOP A SYSTEM TO COORDINATE THE TRANSPORTATION  
22 OF SEXUAL OFFENSE EVIDENCE KITS TO AND FROM LABORATORIES ON A REGULARLY  
23 SCHEDULED BASIS, CONSISTENT WITH THE REQUIREMENTS ESTABLISHED IN SECTION  
24 EIGHT HUNDRED THIRTY-SEVEN-S OF THIS ARTICLE, WHICH SHALL REDUCE DUPLI-  
25 CATION AND COSTS ASSOCIATED WITH EACH POLICE AGENCY MAINTAINING THE  
26 CHAIN OF CUSTODY OF EVIDENCE WHILE TRANSPORTING SUCH EVIDENCE KITS IN A  
27 TIMELY MANNER.

28 S 4. This act shall take effect immediately.