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

6052--B

2015-2016 Regular Sessions

I N A S S E M B L Y

March 11, 2015

Introduced by M. of A. ROSENTHAL -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law and the public health law, in relation to reporting duties of law enforcement agencies, forensic laboratories and healthcare providers with respect to sexual offense evidence kits

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

Section 1. The executive law is amended by adding a new section 837-s to read as follows:

S 837-S. REPORTING DUTIES OF LAW ENFORCEMENT AGENCIES WITH RESPECT TO SEXUAL OFFENSE EVIDENCE KITS. 1. AS USED IN THIS SECTION:

(A) "FORENSIC MEDICAL EXAMINATION" MEANS AN EXAMINATION BY A HEALTH CARE PROVIDER OF A VICTIM OF A POTENTIAL SEX OFFENSE PURSUANT TO SECTION TWENTY-EIGHT HUNDRED FIVE-I OF THE PUBLIC HEALTH LAW OR OTHERWISE FOR THE PURPOSES OF GATHERING AND PRESERVING EVIDENCE OF A SEX OFFENSE.

(B) "SEXUAL OFFENSE EVIDENCE KIT" MEANS A HUMAN BIOLOGICAL SPECIMEN OR SPECIMENS COLLECTED BY A HEALTH CARE PROVIDER DURING A FORENSIC MEDICAL EXAMINATION FROM THE VICTIM OF A POTENTIAL SEX OFFENSE SUBMITTED TO, MAINTAINED BY OR STORED WITH A LAW ENFORCEMENT AGENCY FOR THE PURPOSE OF GATHERING AND PRESERVING EVIDENCE OF A SEX OFFENSE FOR POSSIBLE USE IN A CRIMINAL CASE.

(C) "UNTESTED SEXUAL OFFENSE EVIDENCE KIT" MEANS A SEXUAL OFFENSE EVIDENCE KIT THAT HAS NOT BEEN SUBMITTED TO THE SCIENTIFIC CRIME DETECTION LABORATORY AS DEFINED IN SECTION TWO HUNDRED SIXTEEN-A OF THIS CHAPTER, A FORENSIC DNA LABORATORY AS DEFINED IN SUBDIVISION TWO OF SECTION NINE HUNDRED NINETY-FIVE OF THIS CHAPTER OR ANOTHER SIMILAR

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

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QUALIFIED LABORATORY FOR EITHER A SEROLOGY OR DEOXYRIBONUCLEIC ACID (DNA) TEST.

2. EACH LAW ENFORCEMENT AGENCY THAT ACCEPTS SEXUAL OFFENSE EVIDENCE KITS FOR INVESTIGATION SHALL CREATE AN INVENTORY OF THOSE KITS SUBMITTED TO THE AGENCY. THE INVENTORY SHALL DETAIL, AT A MINIMUM, THE DATE THE KIT WAS RECEIVED BY SUCH AGENCY, THE HOSPITAL OR OTHER HEALTH CARE FACILITY OR PRACTITIONER FROM WHICH IT WAS RECEIVED, THE DATE THE KIT WAS TESTED, AND IF APPLICABLE THE REASON WHY THE KIT WAS NOT SUBMITTED FOR TESTING. UPON THE EFFECTIVE DATE OF THIS SECTION, EACH LAW ENFORCEMENT AGENCY IN THE STATE SHALL PREPARE SUCH AN INVENTORY CONCERNING ALL OF THE SEXUAL OFFENSE EVIDENCE KITS THEN IN SUCH AGENCY'S POSSESSION OR CONTROL.

3. WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION, EACH LAW ENFORCEMENT AGENCY TO OR WITH WHICH A SEXUAL OFFENSE EVIDENCE KIT HAS BEEN SUBMITTED, MAINTAINED, OR STORED SHALL COMPILE, IN WRITING, A REPORT DETAILING THE NUMBER OF UNTESTED SEXUAL OFFENSE EVIDENCE KITS, AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION ONE OF THIS SECTION, IN THE POSSESSION OR CONTROL OF SUCH AGENCY, INCLUDING BUT NOT LIMITED TO THE DATE EACH SEXUAL OFFENSE EVIDENCE KIT WAS COLLECTED BY SUCH AGENCY. THE REPORT SHALL BE TRANSMITTED TO THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE DEPARTMENT OF HEALTH. THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL PROMPTLY PREPARE AND TRANSMIT TO THE TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER OF THE ASSEMBLY A REPORT SETTING FORTH THE NUMBER OF UNTESTED SEXUAL OFFENSE EVIDENCE KITS IN THE POSSESSION OR CONTROL OF EACH LAW ENFORCEMENT AGENCY IN THE STATE AND THE MONTH AND YEAR EACH UNTESTED SEXUAL OFFENSE EVIDENCE KIT WAS COLLECTED. SUCH REPORT FROM THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL INCLUDE A PLAN FOR ADDRESSING ANY BACKLOG OF UNTESTED SEXUAL OFFENCE EVIDENCE KITS.

S 2. Section 216-a of the executive law is amended by adding a new subdivision 3 to read as follows:

3. EACH SCIENTIFIC CRIME DETECTION LABORATORY OR ANY OTHER SIMILARLY QUALIFIED LABORATORY IN THIS STATE THAT HAS RECEIVED ONE OR MORE SEXUAL OFFENSE EVIDENCE KITS, AS DEFINED IN PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION EIGHT HUNDRED THIRTY-SEVEN-S OF THIS CHAPTER, SHALL PREPARE AND TRANSMIT A REPORT TO BOTH THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE DEPARTMENT OF HEALTH SETTING FORTH THE NUMBER OF UNTESTED SEXUAL OFFENSE EVIDENCE KITS IN THE POSSESSION OR CONTROL OF SUCH LABORATORY. THE REPORT SHALL INCLUDE, AT A MINIMUM, THE DATE EACH UNTESTED SEXUAL OFFENSE EVIDENCE KIT WAS SUBMITTED FOR TESTING. THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL PROMPTLY PREPARE AND TRANSMIT A REPORT BASED UPON THE INFORMATION PROVIDED PURSUANT TO THIS SUBDIVISION TO THE TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER OF THE ASSEMBLY. THE REPORT SHALL INCLUDE A PLAN FOR ADDRESSING ANY BACKLOG OF UNTESTED SEXUAL OFFENSE EVIDENCE KITS.

S 3. 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, INCLUDING THE SCIENTIFIC CRIME DETECTION LABORATORY AND OTHER SIMILARLY QUALIFIED LABORATORIES, TO WHOM EACH KIT WAS TRANSFERRED, AND THE DATE ON WHICH EACH KIT WAS TRANSFERRED.

S 4. This act shall take effect on the thirtieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of

this act on its effective date are authorized to be made and completed on or before such effective date.