STATE OF NEW YORK

3326

2017-2018 Regular Sessions

IN SENATE

January 20, 2017

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law, in relation to a statewide sexual assault kit tracking system

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The legislature recognizes the deep pain and suffering experienced by victims of sexual assault. Sexual assault is an extreme violation of a person's body and sense of self and safety. Sexual violence is a pervasive social problem. National studies indicate that approximately one in four women will be sexually assaulted in their lifetimes. Survivors often turn to hospitals and local law enforcement for help, and many volunteer to have professionals collect a sexual assault kit to preserve physical evidence from their bodies. The process of collecting a sexual assault kit is extremely invasive and difficult.

The legislature finds that, when forensic analysis is completed, the biological evidence contained inside sexual assault kits can be an incredibly powerful tool for law enforcement to solve and prevent crime. Forensic analysis of all sexual assault kits sends a message to survivors that they matter. It sends a message to perpetrators that they will be held accountable for their crimes. The legislature is committed to bringing healing and justice to survivors of sexual assault.

The legislature recognizes the laudable and successful efforts of law enforcement in the utilization of forensic analysis of sexual assault kits in the investigation and prosecution of crimes. The legislature intends to continue building on the state's efforts to address serious concerns with the treatment of sexual assault kits through the establishment of the statewide sexual assault kit tracking system. The system will be designed to track all sexual assault kits in the state in order to further empower survivors with information, assist law enforcement

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

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with investigations and crime prevention, and create transparency and foster public trust.

§ 2. The executive law is amended by adding a new section 838-b to read as follows:

§ 838-b. Sexual assault kit tracking system. 1. The division shall create and operate a statewide sexual assault kit tracking system. The division may contract with state or nonstate entities including, but not limited to, private software and technology providers, for the creation, operation, and maintenance of the system.

2. The statewide sexual assault kit tracking system shall:

(a) Track the location and status of sexual assault kits throughout the criminal justice process, including the initial collection in examinations performed at medical facilities, receipt at law enforcement agencies, and receipt and analysis at forensic laboratories;

(b) Allow medical facilities performing sexual assault forensic examinations, law enforcement agencies, prosecutors, all state and local crime laboratories, and other entities in the custody of sexual assault kits to update and track the status and location of sexual assault kits;

(c) Allow victims of sexual assault to anonymously track or receive updates regarding the status of their sexual assault kits; and

(d) Use electronic technology or technologies allowing continuous access.

3. The division may phase initial participation according to region, volume, or other appropriate classifications. All entities in the custody of sexual assault kits shall fully participate in the system no later than July first, two thousand eighteen. The division shall submit a report on the current status and plan for launching the system, including the plan for phased implementation, to appropriate committees of the legislature, and the governor no later than January first, two thousand eighteen.

4. The division shall submit a semiannual report on the statewide sexual assault kit tracking system to the appropriate committees of the legislature and the governor. The report shall be made available to the public through the division's web site. The first report is due July first, two thousand eighteen and subsequent reports are due January thirty-first and July thirty-first of each year. The report shall include the following:

(a) The total number of sexual assault kits in the system statewide and by jurisdiction;

(b) The total and semiannual number of sexual assault kits where forensic analysis has been completed statewide and by jurisdiction;

(c) The number of sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(d) The total and semiannual number of sexual assault kits where forensic analysis has been requested but not completed statewide and by jurisdiction;

(e) The average and median length of time for sexual assault kits to be submitted for forensic analysis after being added to the system, including separate sets of data for all sexual assault kits in the system statewide and by jurisdiction and for sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(f) The average and median length of time for forensic analysis to be completed on sexual assault kits after being submitted for analysis, including separate sets of data for all sexual assault kits in the system statewide and by jurisdiction and for sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(g) The total number of sexual assault kits, statewide and by jurisdiction, where forensic analysis has not been completed and six months or more have passed since those sexual assault kits were added to the system; and

(h) The total number of sexual assault kits, statewide and by jurisdiction, where forensic analysis has not been completed and one year or more has passed since those sexual assault kits were added to the system.

5. For the purpose of reports under subdivision four of this section, a sexual assault kit must be assigned to the jurisdiction associated with the law enforcement agency anticipated to receive the sexual assault kit or otherwise in the custody of the sexual assault kit.

6. Any public agency or entity, including its officials and employees, and any hospital and its employees providing services to victims of sexual assault may not be held civilly liable for damages arising from any release of information or the failure to release information related to the statewide sexual assault kit tracking system, so long as the release was without gross negligence.

§ 3. Local law enforcement agencies shall participate in the statewide sexual assault kit tracking system established in section two of this act for the purpose of tracking the status of all sexual assault kits in the custody of local law enforcement agencies and other entities contracting with local law enforcement agencies. Local law enforcement agencies shall begin full participation in the system according to the implementation schedule established by the division of criminal justice services.

§ 4. A sheriff and his or her deputies shall participate in the statewide sexual assault kit tracking system established in section two of this act for the purpose of tracking the status of all sexual assault kits in the custody of the executive department and other entities contracting with the executive department. A sheriff shall begin full participation in the system according to the implementation schedule established by the division of criminal justice services.

§ 5. All state and local crime laboratories that perform DNA analysis shall participate in the statewide sexual assault kit tracking system established in section two of this act for the purpose of tracking the status of all sexual assault kits in their custody and other entities contracting with such crime labs. The crime laboratories shall begin full participation in the system according to the implementation schedule established by the division of criminal justice services.

§ 6. Hospitals or other treatment centers with staff performing sexual assault forensic examinations shall participate in the statewide sexual assault kit tracking system established in section two of this act for the purpose of tracking the status of all sexual assault kits collected by or in the custody of hospitals and other entities contracting with hospitals. Hospitals shall begin full participation in the system according to the implementation schedule established by the division of criminal justice services.

§ 7. Prosecuting attorneys shall participate in the statewide sexual assault kit tracking system established in section two of this act for the purpose of tracking the status of all sexual assault kits connected to criminal investigations and prosecutions within the county. Prosecuting attorneys shall begin full participation in the system according to the implementation schedule established by the division of criminal justice services.

§ 8. This act shall take effect immediately.