

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:

1 Section 1. The legislature recognizes the deep pain and suffering
2 experienced by victims of sexual assault. Sexual assault is an extreme
3 violation of a person's body and sense of self and safety. Sexual
4 violence is a pervasive social problem. National studies indicate that
5 approximately one in four women will be sexually assaulted in their
6 lifetimes. Survivors often turn to hospitals and local law enforcement
7 for help, and many volunteer to have professionals collect a sexual
8 assault kit to preserve physical evidence from their bodies. The process
9 of collecting a sexual assault kit is extremely invasive and difficult.
10 The legislature finds that, when forensic analysis is completed, the
11 biological evidence contained inside sexual assault kits can be an
12 incredibly powerful tool for law enforcement to solve and prevent crime.
13 Forensic analysis of all sexual assault kits sends a message to survi-
14 vors that they matter. It sends a message to perpetrators that they will
15 be held accountable for their crimes. The legislature is committed to
16 bringing healing and justice to survivors of sexual assault.
17 The legislature recognizes the laudable and successful efforts of law
18 enforcement in the utilization of forensic analysis of sexual assault
19 kits in the investigation and prosecution of crimes. The legislature
20 intends to continue building on the state's efforts to address serious
21 concerns with the treatment of sexual assault kits through the estab-
22 lishment of the statewide sexual assault kit tracking system. The system
23 will be designed to track all sexual assault kits in the state in order
24 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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1 with investigations and crime prevention, and create transparency and
2 foster public trust.

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

5 § 838-b. Sexual assault kit tracking system. 1. The division shall
6 create and operate a statewide sexual assault kit tracking system. The
7 division may contract with state or nonstate entities including, but not
8 limited to, private software and technology providers, for the creation,
9 operation, and maintenance of the system.

10 2. The statewide sexual assault kit tracking system shall:

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

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

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

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

23 3. The division may phase initial participation according to region,
24 volume, or other appropriate classifications. All entities in the custo-
25 dy of sexual assault kits shall fully participate in the system no later
26 than July first, two thousand eighteen. The division shall submit a
27 report on the current status and plan for launching the system, includ-
28 ing the plan for phased implementation, to appropriate committees of the
29 legislature, and the governor no later than January first, two thousand
30 eighteen.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

56 § 8. This act shall take effect immediately.