

STATE OF NEW YORK

7867--A

IN SENATE

January 14, 2022

Introduced by Sens. BIAGGI, CLEARE, GAUGHRAN, GOUNARDES, HOYLMAN, MYRIE
-- 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

AN ACT to amend the public health law, in relation to implementing a
statewide electronic tracking system for evidence collection kits used
to collect and preserve evidence of a sexual assault or other sex
offense

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

1 Section 1. Section 2805-i of the public health law is amended by
2 adding a new subdivision 8 to read as follows:

3 8. (a) The division of criminal justice services in consultation with
4 the department, the office of victim services, the division of state
5 police, and the New York State Coalition Against Sexual Assault shall
6 develop and implement a statewide electronic tracking system for
7 evidence collection kits used to collect and preserve evidence of a
8 sexual assault or other sex offense.

9 (b) The division of criminal justice services shall implement proto-
10 cols and administer the statewide electronic tracking system. The divi-
11 sion of criminal justice services shall promulgate rules and guidelines
12 to ensure that previously untested sexual assault evidence collection
13 kits are trackable and are entered into the statewide electronic track-
14 ing system developed pursuant to this subdivision, and that survivors
15 are given notice of how they may track their own sexual assault evidence
16 collection kit. Any law enforcement agency, medical provider or forensic
17 laboratory that has in its custody a previously untested sexual assault
18 evidence collection kit used for a forensic medical examination shall
19 comply with the established protocols, rules and guidelines relating to
20 all such untested sexual assault evidence collection kits. To the
21 extent practicable, in collaboration with rape crisis and local victim
22 assistance organizations, and consistent with protecting victim confi-
23 dentiality for unreported sexual assaults, a law enforcement agency
24 having custody of a previously untested sexual assault evidence

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

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1 collection kit shall take reasonable measures to provide appropriate
2 tracking information to the affected survivor.

3 (c) The statewide electronic tracking system shall:

4 (1) Track the location and status of each evidence collection kit
5 through the criminal justice process, including the initial collection
6 of evidence for the kit in a forensic medical examination performed at a
7 healthcare facility, receipt and storage of the evidence collection kit
8 at a law enforcement agency, receipt and analysis of the evidence
9 collection kit at an accredited crime laboratory, and storage and
10 destruction of the kit after the applicable evidence is analyzed;

11 (2) Allow a healthcare facility performing a forensic medical examina-
12 tion of a survivor, law enforcement agency, accredited crime laboratory,
13 prosecutor or other entity providing a chain of custody for an evidence
14 collection kit to update and track the status and location of the kits;
15 and

16 (3) Allow a survivor to anonymously track or receive updates regarding
17 the status and location of such survivor's evidence collection kit.

18 (d) No later than January first, two thousand twenty-four, the depart-
19 ment shall require participation in the statewide electronic tracking
20 system established pursuant to this subdivision by all medical provid-
21 ers, law enforcement agencies, forensic laboratories or other persons or
22 entities having custody or use of any sexual assault evidence collection
23 kit in the state. Such entities shall participate in the tracking system
24 and comply with all established protocols, rules and guidelines. A
25 participating entity shall be permitted to access the entity's tracking
26 information through the statewide electronic tracking system.

27 (e) Records entered into the tracking system are confidential.
28 Records relating to an evidence collection kit may be accessed only by:

29 (1) the survivor for whom the evidence collection kit was completed;
30 or

31 (2) an employee of an entity described by paragraph (d) of this subdi-
32 vision for purposes of updating or tracking the status or location of
33 the evidence collection kit.

34 (f) For purposes of this section:

35 (1) "previously untested sexual assault evidence collection kit" shall
36 mean an evidence collection kit that has not undergone forensic testing;

37 (2) "evidence collection kit" shall mean a human biological specimen
38 or specimens collected by a healthcare provider during a forensic
39 medical examination from the victim of a sexual assault or other sex
40 offense; and

41 (3) "survivor" shall mean an individual who is the victim of a sexual
42 offense from whom a human biological specimen or specimens collected by
43 a healthcare provider during a forensic medical examination.

44 § 2. This act shall take effect immediately.