

# STATE OF NEW YORK

7867

## IN SENATE

January 14, 2022

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

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 Assembly, 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, and the division of state  
5 police shall develop and implement a statewide electronic tracking  
6 system for evidence collection kits used to collect and preserve  
7 evidence of a sexual assault or other sex offense.

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

26 (c) The statewide electronic tracking system shall:

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

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

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

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

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

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

26 (1) the survivor for whom the evidence collection kit was completed;  
27 or

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

31 (f) For purposes of this section:

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

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

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

41 § 2. This act shall take effect immediately.