

STATE OF NEW YORK

2226

2023-2024 Regular Sessions

IN SENATE

January 19, 2023

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

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 that are submitted to the custody of law enforcement; and to amend a chapter of the laws of 2022 amending the public health law relating 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, as proposed in legislative bills numbers S. 7867-A and A. 9596-A, in relation to the effectiveness thereof

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

1 Section 1. Subdivision 8 of section 2805-i of the public health law,
2 as added by a chapter of the laws of 2022 amending the public health law
3 relating to implementing a statewide electronic tracking system for
4 evidence collection kits used to collect and preserve evidence of a
5 sexual assault or other sex offense, as proposed in legislative bills
6 numbers S. 7867-A and A. 9596-A, is amended to read as follows:

7 8. (a) The division of criminal justice services in consultation with
8 the department, the office of victim services, the division of state
9 police, and the New York State Coalition Against Sexual Assault shall
10 develop [~~and implement~~] a statewide electronic tracking system for
11 evidence collection kits used to collect and preserve evidence of a
12 sexual assault or other sex offense that are submitted to the custody of
13 law enforcement. Such statewide electronic tracking system shall not
14 include evidence collection kits not in the custody of law enforcement.

15 (b) [~~The division of criminal justice services shall implement proto-~~
16 ~~cols and administer the statewide electronic tracking system.~~] The divi-
17 sion of criminal justice services shall promulgate rules and guidelines

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

LBD04192-01-3

1 to ensure that [~~previously untested~~] sexual assault evidence collection
2 kits that are submitted to the custody of law enforcement are trackable
3 [~~and are entered into the~~] on a statewide electronic tracking system
4 developed pursuant to this subdivision, and that survivors are given
5 notice of how they may track their own sexual assault evidence
6 collection kit after it has been submitted to the custody of law
7 enforcement. Any law enforcement agency, [~~medical provider or~~] forensic
8 laboratory, or prosecutor that has [~~in its~~] taken custody [~~a previously~~
9 ~~untested sexual assault~~] of an evidence collection kit used for a foren-
10 sic medical examination shall comply with the established protocols,
11 rules and guidelines [~~relating to all such untested sexual assault~~
12 ~~evidence collection kits. To the extent practicable, in collaboration~~
13 ~~with rape crisis and local victim assistance organizations, and consist-~~
14 ~~ent with protecting victim confidentiality for unreported sexual~~
15 ~~assaults, a law enforcement agency having custody of a previously~~
16 ~~untested sexual assault evidence collection kit shall take reasonable~~
17 ~~measures to provide appropriate tracking information to the affected~~
18 ~~survivor~~] established by the division of criminal justice services
19 pursuant to this paragraph.

20 (c) The statewide electronic tracking system shall:

21 (1) Track the location and status of each evidence collection kit
22 [~~through the criminal justice process, including the initial collection~~
23 ~~of evidence for the kit in a forensic medical examination performed at a~~
24 ~~healthcare facility, receipt and storage of the evidence collection kit~~
25 ~~at a law enforcement agency, receipt and analysis of the evidence~~
26 ~~collection kit at an accredited crime laboratory, and storage and~~
27 ~~destruction of the kit after the applicable evidence is analyzed~~] after
28 such kit has been submitted to the custody of law enforcement;

29 (2) Allow a [~~healthcare facility performing a forensic medical exam-~~
30 ~~ination of a survivor,~~] law enforcement agency, accredited crime labora-
31 tory, prosecutor, employees of the long-term sexual offense evidence
32 storage facility, or any other entity providing a chain of custody for
33 an evidence collection kit, to update and track the status and location
34 of the kits that have been submitted to the custody of law enforcement;
35 and

36 (3) Allow a survivor to anonymously track or receive updates regarding
37 the status and location of such survivor's evidence collection kit that
38 has been submitted to the custody of law enforcement.

39 (d) No later than January first, two thousand [~~twenty-four, the~~
40 ~~department shall require participation in the statewide electronic~~
41 ~~tracking system established pursuant to this subdivision by all medical~~
42 ~~providers, law enforcement agencies, forensic laboratories or other~~
43 ~~persons or entities having custody or use of any sexual assault evidence~~
44 ~~collection kit in the state. Such entities~~] twenty-five, any law
45 enforcement agency, accredited crime laboratory, prosecutor, employee of
46 the long-term sexual offense evidence storage facility, or any other
47 entity providing a chain of custody for an evidence collection kit to
48 update and track the status and location of such kit, shall participate
49 in the tracking system and comply with all established protocols, rules
50 and guidelines. A participating entity shall be permitted to access the
51 entity's tracking information through the statewide electronic tracking
52 system.

53 (e) Records entered into the tracking system are confidential.
54 Records relating to an evidence collection kit [~~may~~] shall be accessed
55 only by[+]

1 ~~(1)~~] the survivor for whom the evidence collection kit was completed[~~+~~
 2 ~~ex~~
 3 ~~(2) an employee of an entity described by paragraph (d) of this subdivi-~~
 4 ~~vision for purposes of updating or tracking the status or location of~~
 5 ~~the evidence collection kit].~~

6 (f) The provisions of this subdivision shall apply to all evidence
 7 collection kits submitted prior to, on, or after the effective date of
 8 this subdivision.

9 (g) For purposes of this section:

10 (1) [~~"previously untested sexual assault evidence collection kit"~~
 11 ~~shall mean an evidence collection kit that has not undergone forensic~~
 12 ~~testing;~~

13 ~~(2)~~] "evidence collection kit" shall mean a human biological specimen
 14 or specimens collected by a healthcare provider during a forensic
 15 medical examination from the victim of a sexual assault or other sex
 16 offense; and

17 [~~(3)~~] (2) "survivor" shall mean an individual who is the victim of a
 18 sexual offense from whom a human biological specimen or specimens
 19 collected by a healthcare provider during a forensic medical examina-
 20 tion.

21 § 2. Section 2 of a chapter of the laws of 2022 amending the public
 22 health law relating to implementing a statewide electronic tracking
 23 system for evidence collection kits used to collect and preserve
 24 evidence of a sexual assault or other sex offense, as proposed in legis-
 25 lative bills numbers S. 7867-A and A. 9596-A, is amended to read as
 26 follows:

27 § 2. This act shall take effect [~~immediately~~] on the one hundred
 28 eightieth day after it shall have become a law.

29 § 3. This act shall take effect immediately; provided, however, that
 30 section one of this act shall take effect on the same date and in the
 31 same manner as a chapter of the laws of 2022 amending the public health
 32 law relating to implementing a statewide electronic tracking system for
 33 evidence collection kits used to collect and preserve evidence of a
 34 sexual assault or other sex offense, as proposed in legislative bills
 35 numbers S. 7867-A and A. 9596-A, takes effect.