STATE OF NEW YORK

10317

IN ASSEMBLY

May 17, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Paulin) -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to collecting and reporting sexual offense evidence on the statewide electronic tracking system

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

Section 1. Paragraph (j) of subdivision 2 of section 2805-i of the public health law, as amended by section 1 of part II of chapter 56 of the laws of 2021, is amended to read as follows:

(j) Notwithstanding any other provision in this section, sexual offense evidence shall not continue to be stored where: (i) such evidence is not privileged and law enforcement requests its release, in which case the custodian(s) shall comply with such request; or (ii) such evidence is privileged and either (A) the alleged sexual offense victim gives permission to release the evidence to law enforcement, **upon which law enforcement must retrieve the evidence within three days of such permission and report such evidence in the statewide electronic tracking system pursuant to subdivision eight of this section,** or (B) the alleged sexual offense victim signs a statement directing the custodian(s) to dispose of the evidence, in which case the sexual offense evidence will be discarded in compliance with state and local health codes.

§ 2. Subdivision 8 of section 2805-i of the public health law, as amended by chapter 31 of the laws of 2023, is amended to read as follows:

8. (a) The division of criminal justice services in consultation with the department, the office of victim services, the division of state police, and the New York State Coalition Against Sexual Assault shall develop a statewide electronic tracking system for **reported** 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**~~]. Such statewide electronic tracking system shall not include **unreported** evidence collection kits [~~**not in the custody of law enforcement**~~]**, provided, however, that any unreported evidence collection**

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

LBD15582-01-4

kits released by the office of victim services to law enforcement pursuant to clause (A) of subparagraph (i) of paragraph j of subdivision two of this section shall be designated as reported evidence collection kits subject to the tracking requirements set forth in this subdivision.

(b) The division of criminal justice services shall promulgate rules and guidelines to ensure that sexual assault evidence collection kits [~~that are submitted to the custody of law enforcement~~] are trackable on a statewide electronic tracking system developed pursuant to this subdivision, and that survivors are given notice of how they may track their own [~~sexual assault~~] reported evidence collection kit [~~after it has been submitted to the custody of law enforcement~~]. Such rules and guidelines shall require that (i) hospitals collecting evidence collection kits record the collection of any reported evidence collection kits in the electronic tracking system and notify the appropriate law enforcement agency within forty-eight hours of such collection, and (ii) law enforcement retrieve any reported evidence collection kit from a hospital within three days of being notified by a hospital that a reported evidence collection kit has been collected. Any hospital, law enforcement agency, forensic laboratory, or prosecutor that has taken custody of an evidence collection kit used for a forensic medical examination shall comply with the established protocols, rules and guidelines established by the division of criminal justice services pursuant to this paragraph.

(c) The statewide electronic tracking system shall:

(1) Track the location and status of each reported evidence collection kit [~~after such kit has been submitted to the custody of law enforcement~~] from collection to final disposition;

(2) Allow a hospital, law enforcement agency, accredited crime laboratory, prosecutor, employees of the long-term sexual offense evidence storage facility, or any other entity providing a chain of custody for [~~an~~] a reported evidence collection kit, to update and track the status and location of the reported evidence collection kits [~~that have been submitted to the custody of law enforcement~~]; and

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

(d) No later than January first, two thousand twenty-five, any hospital, law enforcement agency, accredited crime laboratory, prosecutor, employee of the long-term sexual offense evidence storage facility, or any other entity providing a chain of custody for [~~an~~] a reported evidence collection kit to update and track the status and location of such kit, shall participate in the tracking system and comply with all established protocols, rules and guidelines. A participating entity shall be permitted to access the entity's tracking information through the statewide electronic tracking system.

(e) Records entered into the tracking system are confidential. Records relating to [~~an~~] a reported evidence collection kit shall be accessed only by the survivor for whom the reported evidence collection kit was completed.

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

(g) For purposes of this section:

(1) "evidence collection kit" shall mean a human biological specimen or specimens collected by a healthcare provider during a forensic

medical examination from the victim of a sexual assault or other sex offense; [~~and~~]

(2) "survivor" shall mean an individual who is the victim of a sexual offense from whom a human biological specimen or specimens collected by a healthcare provider during a forensic medical examination[~~.~~]**;**

(3) "reported evidence collection kit" means a sexual assault evidence kit in which the survivor has consented to evidence collection and reporting the sexual assault or other sex offense to law enforcement; and

(4) "unreported evidence collection kit" means evidence collection kits controlled by the office of victims services pursuant to paragraph (d) of subdivision two of this section.

§ 3. This act shall take effect immediately, provided, however, that the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act shall be completed within three months of such effective date.