



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3269

Introduced 2/9/2010, by Sen. Toi W. Hutchinson

SYNOPSIS AS INTRODUCED:

See Index

Creates the Sexual Assault Evidence Submission Act. Provides that law enforcement agencies that receive sexual assault evidence in connection with the investigation of a criminal case on or after the effective date of this Act must submit evidence from the case within 10 business days of receipt to a Department of State Police forensic laboratory or a laboratory approved and designated by the Director of State Police. Provides that all sexual assault evidence submitted to the Department of State Police on or after the effective date of the Act shall be analyzed and tested within 6 months after receipt of all necessary evidence and standards into the State Police Laboratory if sufficient staffing and resources are available. Provides that within 30 business days after the effective date of the Act, each Illinois law enforcement agency shall provide written notice to the Department of State Police forensic laboratory or other laboratory approved or designated by the Director of State Police stating the number of sexual assault cases in the custody of the law enforcement agency that have not been previously submitted to a laboratory for analysis. Provides that appropriate arrangements shall be made between the law enforcement agency and the Department of State Police, or a laboratory approved and designated by the Director of State Police, to ensure that all cases collected prior to the effective date of this Act, which the law enforcement agency has determined are within the statute of limitations and are the subject of a criminal investigation, are submitted within 120 days after the effective date of the Act. Amends the Sexual Assault Survivors Emergency Treatment Act to make conforming changes.

LRB096 20396 RLC 36042 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning sexual assault evidence.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Sexual
5 Assault Evidence Submission Act.

6 Section 5. Definitions. In this Act:

7 "Department" means the Department of State Police or
8 Illinois State Police.

9 "Law enforcement agencies" means local, county, State or
10 federal law enforcement agencies involved in the investigation
11 of sexual assault cases in Illinois.

12 "Sexual assault evidence" means evidence collected using
13 the State Police Evidence Collection Kits.

14 Section 10. Submission of evidence. Law enforcement
15 agencies that receive sexual assault evidence in connection
16 with the investigation of a criminal case on or after the
17 effective date of this Act must submit evidence from the case
18 within 10 business days of receipt to a Department of State
19 Police forensic laboratory or a laboratory approved and
20 designated by the Director of State Police.

21 Section 15. Analysis of evidence. All sexual assault

1 evidence submitted to the Department of State Police on or
2 after the effective date of this Act shall be analyzed and
3 tested within 6 months after receipt of all necessary evidence
4 and standards by the State Police Laboratory if sufficient
5 staffing and resources are available.

6 Section 20. Inventory of evidence. Within 30 business days
7 after the effective date of this Act, each Illinois law
8 enforcement agency shall provide written notice to the
9 Department of State Police forensic laboratory or other
10 laboratory approved or designated by the Director of State
11 Police stating the number of sexual assault cases in the
12 custody of the law enforcement agency that have not been
13 previously submitted to a laboratory for analysis. Appropriate
14 arrangements shall be made between the law enforcement agency
15 and the Department of State Police, or a laboratory approved
16 and designated by the Director of State Police, to ensure that
17 all cases collected prior to the effective date of this Act
18 that the law enforcement agency has determined are within the
19 statute of limitations and are the subject of a criminal
20 investigation, are submitted within 120 days after the
21 effective date of this Act.

22 Section 25. Failure of a law enforcement agency to submit
23 the sexual assault evidence. The failure of a law enforcement
24 agency to submit the sexual assault evidence collected on or

1 after the effective date of this Act within 10 business days
2 after receipt shall in no way alter the authority of the law
3 enforcement agency to submit the evidence or the authority of
4 the Department of State Police forensic laboratory or
5 designated laboratory to accept and analyze the evidence or
6 specimen or to maintain or upload the results of genetic marker
7 grouping analysis information into a local, state, or national
8 database in accordance with established protocol.

9 Section 30. Required certification. Each submission of
10 sexual assault evidence submitted for analysis pursuant to this
11 Act shall be accompanied by the following signed certification:

12 "This evidence is being submitted by (name of investigating
13 law enforcement agency) in connection with a criminal
14 investigation."

15 Section 35. Expungement. If the Department receives
16 written confirmation from the investigating law enforcement
17 agency or State's Attorney's office that a DNA record that has
18 been uploaded pursuant to this Act into a Local, State or
19 national DNA database was not connected to a criminal
20 investigation, the DNA record shall be expunged from the DNA
21 database and the Department shall, by rule, prescribe
22 procedures to ensure that the record in the possession or
23 control of the Department is destroyed and that a letter is
24 sent to the submitting law enforcement agency verifying the

1 expungement.

2 Section 40. Failure to expunge. The failure to expunge a
3 DNA record or strictly comply with the provisions of Section 35
4 of this Act shall not be grounds for challenging the validity
5 of a database match or database information, and evidence based
6 upon or derived from the DNA record may not be excluded by a
7 court.

8 Section 45. Rules. The Department of State Police shall
9 promulgate rules that prescribe the procedures for the
10 operation of this Act, including expunging a DNA record.

11 Section 90. The Sexual Assault Survivors Emergency
12 Treatment Act is amended by changing Section 6.4 as follows:

13 (410 ILCS 70/6.4) (from Ch. 111 1/2, par. 87-6.4)

14 Sec. 6.4. Sexual assault evidence collection program.

15 (a) There is created a statewide sexual assault evidence
16 collection program to facilitate the prosecution of persons
17 accused of sexual assault. This program shall be administered
18 by the Illinois State Police. The program shall consist of the
19 following: (1) distribution of sexual assault evidence
20 collection kits which have been approved by the Illinois State
21 Police to hospitals that request them, or arranging for such
22 distribution by the manufacturer of the kits, (2) collection of

1 the kits from hospitals after the kits have been used to
2 collect evidence, (3) analysis of the collected evidence and
3 conducting of laboratory tests, (4) maintaining the chain of
4 custody and safekeeping of the evidence for use in a legal
5 proceeding, and (5) the comparison of the collected evidence
6 with the genetic marker grouping analysis information
7 maintained by the Department of State Police under Section
8 5-4-3 of the Unified Code of Corrections and with the
9 information contained in the Federal Bureau of Investigation's
10 National DNA database; provided the amount and quality of
11 genetic marker grouping results obtained from the evidence in
12 the sexual assault case meets the requirements of both the
13 Department of State Police and the Federal Bureau of
14 Investigation's Combined DNA Index System (CODIS) policies.
15 The standardized evidence collection kit for the State of
16 Illinois shall be the Illinois State Police Sexual Assault
17 Evidence Kit. A sexual assault evidence collection kit may not
18 be released by a hospital without the written consent of the
19 sexual assault survivor. In the case of a survivor who is a
20 minor 13 years of age or older, evidence and information
21 concerning the sexual assault may be released at the written
22 request of the minor. If the survivor is a minor who is under
23 13 years of age, evidence and information concerning the
24 alleged sexual assault may be released at the written request
25 of the parent, guardian, investigating law enforcement
26 officer, or Department of Children and Family Services. If the

1 survivor is an adult who has a guardian of the person, a health
2 care surrogate, or an agent acting under a health care power of
3 attorney, then consent of the guardian, surrogate, or agent is
4 not required to release evidence and information concerning the
5 sexual assault. If the adult is unable to provide consent for
6 the release of evidence and information and a guardian,
7 surrogate, or agent under a health care power of attorney is
8 unavailable or unwilling to release the information, then an
9 investigating law enforcement officer may authorize the
10 release. Any health care professional, including any
11 physician, advanced practice nurse, physician assistant, or
12 nurse, sexual assault nurse examiner, and any health care
13 institution, including any hospital, who provides evidence or
14 information to a law enforcement officer pursuant to a written
15 request as specified in this Section is immune from any civil
16 or professional liability that might arise from those actions,
17 with the exception of willful or wanton misconduct. The
18 immunity provision applies only if all of the requirements of
19 this Section are met.

20 (a-5) (Blank). ~~All sexual assault evidence collected using~~
21 ~~the State Police Evidence Collection Kits before January 1,~~
22 ~~2005 (the effective date of Public Act 93-781) that have not~~
23 ~~been previously analyzed and tested by the Department of State~~
24 ~~Police shall be analyzed and tested within 2 years after~~
25 ~~receipt of all necessary evidence and standards into the State~~
26 ~~Police Laboratory if sufficient staffing and resources are~~

1 ~~available. All sexual assault evidence collected using the~~
2 ~~State Police Evidence Collection Kits on or after January 1,~~
3 ~~2005 (the effective date of Public Act 93-781) shall be~~
4 ~~analyzed and tested by the Department of State Police within~~
5 ~~one year after receipt of all necessary evidence and standards~~
6 ~~into the State Police Laboratory if sufficient staffing and~~
7 ~~resources are available.~~

8 (b) The Illinois State Police shall administer a program to
9 train hospitals and hospital personnel participating in the
10 sexual assault evidence collection program, in the correct use
11 and application of the sexual assault evidence collection kits.
12 A sexual assault nurse examiner may conduct examinations using
13 the sexual assault evidence collection kits, without the
14 presence or participation of a physician. The Department shall
15 cooperate with the Illinois State Police in this program as it
16 pertains to medical aspects of the evidence collection.

17 (c) In this Section, "sexual assault nurse examiner" means
18 a registered nurse who has completed a sexual assault nurse
19 examiner (SANE) training program that meets the Forensic Sexual
20 Assault Nurse Examiner Education Guidelines established by the
21 International Association of Forensic Nurses.

22 (Source: P.A. 95-331, eff. 8-21-07; 95-432, eff. 1-1-08;
23 96-318, eff. 1-1-10.)

1

INDEX

2

Statutes amended in order of appearance

3

New Act

4

410 ILCS 70/6.4

from Ch. 111 1/2, par. 87-6.4