

**House File 623 - Introduced**

HOUSE FILE 623

BY ANDERSON

**A BILL FOR**

1 An Act relating to the rights of sexual assault survivors, and  
2 making appropriations.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I  
SURVIVOR RIGHTS

1  
2  
3 Section 1. Section 709.10, Code 2017, is amended by adding  
4 the following new subsection:

5 NEW SUBSECTION. 3. The department of public safety shall  
6 develop a kit tracking system as provided in section 915A.10.

7 Sec. 2. NEW SECTION. **915A.1 Applicability — survivors of**  
8 **sexual assault.**

9 In addition to the rights under chapter 915, the rights  
10 enumerated in this chapter shall apply to a survivor of sexual  
11 assault.

12 Sec. 3. NEW SECTION. **915A.2 Definitions.**

13 For the purposes of this chapter, unless the context  
14 otherwise requires:

15 1. "*Counselor*" means a victim counselor as defined in  
16 section 915.20A, or a victim advocate working for a provider of  
17 services designated under section 236.15.

18 2. "*Kit*" means a sexual assault forensic evidence kit  
19 containing a human biological specimen collected from an  
20 alleged sexual assault survivor by a medical provider during a  
21 medical evidentiary examination.

22 3. "*Laboratory*" means the state criminalistics laboratory  
23 established in chapter 691.

24 4. "*Medical evidentiary examination*" means a medical  
25 evidentiary examination or physical examination to collect  
26 sexual assault forensic evidence.

27 5. "*Medical provider*" means a health care professional,  
28 hospital, or emergency medical facility.

29 6. "*Officer*" means a law enforcement officer, including  
30 peace officers and sheriffs and their regular deputies, or any  
31 person employed by a private police agency at an educational  
32 institution.

33 7. "*Rapid turnaround DNA program*" is a program adopted by a  
34 law enforcement agency, medical provider, and laboratory for  
35 the training of sexual assault team personnel in the selection

1 of representative samples of forensic evidence from an alleged  
2 survivor to be the best evidence based on a medical evaluation  
3 and patient history, the collection and preservation of that  
4 evidence, and the transfer of the evidence directly from the  
5 medical provider to the laboratory.

6 8. "*Sexual assault*" means sexual abuse as defined in section  
7 709.1 or incest as defined in section 726.2, or any other  
8 sexual offense by which a victim has allegedly had sufficient  
9 contact with an alleged offender to be deemed a significant  
10 exposure, as defined in section 915.40.

11 9. "*Survivor*" means an alleged victim of a sexual assault.  
12 "*Survivor*" includes the parent, guardian, spouse, or any other  
13 person related to the survivor by consanguinity or affinity to  
14 the second degree, or any other lawful representative of the  
15 survivor if the survivor is incompetent or deceased; unless  
16 such person is the alleged perpetrator.

17 Sec. 4. NEW SECTION. 915A.3 **Survivor rights — attachment.**

18 1. The rights provided to a survivor in this chapter attach  
19 when a survivor consents to receive a medical evidentiary  
20 examination, or when a survivor consents to an interview about  
21 a sexual assault with an officer, county attorney, or defense  
22 attorney.

23 2. Once attached pursuant to subsection 1, a survivor  
24 shall retain all the rights provided pursuant to this chapter  
25 regardless of whether the survivor agrees to continue to  
26 participate in the criminal justice system.

27 Sec. 5. NEW SECTION. 915A.4 **Survivor rights.**

28 1. A survivor has the right to be reasonably protected from  
29 the alleged perpetrator and persons acting on behalf of the  
30 alleged perpetrator.

31 2. A survivor has the right to be free from intimidation,  
32 harassment, and abuse. During the course of any judicial  
33 proceeding, the court shall make reasonable efforts to provide  
34 the survivor and the survivor's family members, friends, and  
35 witnesses with a secure waiting area or room that is separate

1 from the waiting area for the defendant and the defendant's  
2 family members, friends, witnesses, and attorneys, and separate  
3 from the county attorney's office.

4 3. A survivor has the right to be treated with fairness  
5 and respect for the survivor's privacy and dignity. During  
6 the course of a judicial proceeding, the court shall, upon the  
7 request of the survivor, clear the courtroom of all persons  
8 when the survivor is testifying regarding the case in any  
9 civil or criminal trial, except that parties to the case and  
10 their immediate families or guardians, attorneys and their  
11 secretaries, officers of the court, jurors, members of the  
12 media, court reporters, and, at the request of the survivor,  
13 witnesses designated by the county attorney may remain in the  
14 courtroom.

15 4. As provided under section 915.44, a survivor shall not be  
16 required to submit to a polygraph examination as a prerequisite  
17 to filing an accusatory pleading, or to participating in any  
18 part of the criminal justice system.

19 5. A survivor has the right to be heard through a victim  
20 impact statement pursuant to section 915.21, at any proceeding  
21 involving a postarrest release decision, plea, sentencing,  
22 postconviction release decision, or any other proceeding  
23 where a right of the survivor is at issue, and the right to  
24 provide a sentencing recommendation to the person conducting a  
25 presentence investigation.

26 6. Upon request of a survivor, a law enforcement agency  
27 shall inform the survivor of the status of analyzing the kit  
28 evidence or other crime scene evidence from the survivor's  
29 case. The law enforcement agency may, at its discretion,  
30 require that the survivor's request be in writing. The law  
31 enforcement agency shall respond to the survivor's request with  
32 either an oral or written communication, or by electronic mail,  
33 if an electronic mail address is available. This subsection  
34 does not require that the law enforcement agency communicate  
35 with the survivor regarding the status of analyzing the kit

1 absent a specific request from the survivor.

2 Sec. 6. NEW SECTION. 915A.5 Right to a counselor.

3 1. A survivor has the right to consult with a counselor  
4 during any medical evidentiary examination, or during any  
5 interview with an officer, county attorney, or defense  
6 attorney. A survivor retains this right even if the survivor  
7 has waived the right in a previous examination or interview.

8 2. Communications between a survivor and a counselor are  
9 confidential and privileged, including information disclosed  
10 in the presence of any third person conducting a medical  
11 evidentiary examination or a law enforcement interview.

12 3. The presence of a counselor does not negate any existing  
13 privilege otherwise guaranteed by law.

14 4. A survivor's waiver of the right to a counselor is  
15 privileged.

16 5. A survivor retains the right to have a counselor present  
17 during all stages of any medical examination, investigation,  
18 or other interaction with a representative from the legal or  
19 criminal justice system.

20 Sec. 7. NEW SECTION. 915A.6 Survivor notification document.

21 The department of justice shall develop a survivor  
22 notification document to be distributed by an officer or a  
23 medical provider upon the officer's or provider's initial  
24 contact with a survivor. The survivor notification document  
25 shall be in clear language that is comprehensible to a person  
26 proficient in English at the fifth grade level, be accessible  
27 to persons with visual disabilities, and be available in all  
28 major languages of the state. The document shall include but  
29 shall not be limited to:

30 1. A clear statement that a survivor is not required to  
31 participate in the criminal justice system, participate in  
32 an interview with an officer, county attorney, or defense  
33 attorney, or receive a medical evidentiary examination.  
34 However, the rights of a survivor attach when the survivor  
35 consents to participate in such an interview or consents to a

1 medical evidentiary examination.

2 2. Telephone and internet contact information for nearby  
3 rape crisis centers and counselors.

4 3. The forms of law enforcement protection available to the  
5 survivor, including a temporary no-contact order or protective  
6 order, and the process to obtain such orders under chapter  
7 664A.

8 4. Instructions for requesting the results of any analysis  
9 of the forensic evidence obtained from the survivor.

10 5. Information about state and federal compensation funds  
11 available for medical or other costs associated with the  
12 case, and information on any municipal, state, or federal  
13 right to restitution for survivors in the event of a criminal  
14 proceeding.

15 Sec. 8. NEW SECTION. 915A.7 Officer or county attorney  
16 interaction with a survivor.

17 1. Before commencing an interview with a survivor, an  
18 officer or county attorney shall inform the survivor of the  
19 following rights:

20 a. To receive a survivor notification document if the  
21 survivor has not already received a survivor notification  
22 document or does not remember receiving a survivor notification  
23 document.

24 b. To consult with a counselor during any interview by  
25 an officer, county attorney, or defense attorney unless no  
26 counselor can be summoned in a reasonably timely manner.

27 c. To be interviewed by an officer or county attorney of the  
28 same gender or opposite gender as the survivor, unless no such  
29 officer or county attorney is reasonably available.

30 2. An officer shall, upon written request by a survivor,  
31 furnish a free, complete, and unaltered copy of all law  
32 enforcement reports concerning the case, at the time the  
33 investigation has been closed by the law enforcement agency.

34 Sec. 9. NEW SECTION. 915A.8 Initial interaction by a  
35 medical provider.

1 1. A medical provider shall not charge a survivor for  
2 the cost of the medical evidentiary examination portion of a  
3 medical examination either directly or indirectly.

4 2. A medical provider shall provide contraception to a  
5 female survivor, if the survivor so chooses, within four hours  
6 of the medical examination, and at no cost to the survivor.

7 3. Prior to a medical provider commencing a medical  
8 evidentiary examination of a survivor, the survivor shall be  
9 informed of the survivor's rights under this chapter. The  
10 survivor shall be entitled to the following:

11 a. To receive a survivor notification document.

12 b. To consult with a counselor, summoned by a medical  
13 provider before the commencement of the medical evidentiary  
14 examination, unless a counselor is unable to be summoned in a  
15 reasonably timely manner.

16 c. To know the ramifications of delaying the medical  
17 evidentiary examination if a counselor is unable to be summoned  
18 in a timely manner.

19 d. To shower, at no cost, unless showering facilities are  
20 not available after the medical evidentiary examination.

21 4. A support person may be excluded from a medical  
22 evidentiary examination if the officer or medical provider  
23 determines that the presence of that individual would be  
24 detrimental to the purpose of the examination.

25 **Sec. 10. NEW SECTION. 915A.9 Collecting sexual assault**  
26 **forensic evidence — creation of kit — requirements.**

27 A medical provider shall, upon conducting a medical  
28 evidentiary examination, collect sexual assault forensic  
29 evidence for placement in a kit.

30 1. The kit shall be delivered to the law enforcement agency  
31 believed to have jurisdiction over the sexual assault within  
32 twenty-four hours of collecting any sexual assault forensic  
33 evidence.

34 2. The law enforcement agency with jurisdiction over the  
35 sexual assault shall deliver the kit to the laboratory as

1 soon as possible or within five days of receiving the kit,  
2 unless the survivor requests in writing for the laboratory to  
3 defer analysis of the evidence. If a law enforcement agency  
4 determines that it does not have jurisdiction, it shall notify  
5 the law enforcement agency having proper jurisdiction of that  
6 fact after taking possession of the kit. The law enforcement  
7 agency having proper jurisdiction shall take possession of the  
8 kit from the other law enforcement agency and submit the kit  
9 to the laboratory as soon as possible or within five days of  
10 taking possession of the kit.

11 3. The laboratory shall retain the kit for a minimum of ten  
12 years before it is destroyed, or until the survivor reaches  
13 twenty-eight years of age if the survivor was a minor when the  
14 sexual assault occurred.

15 4. The survivor may request that the laboratory analyze the  
16 kit at any later date before the expiration of the retention  
17 period described in subsection 3.

18 5. A law enforcement agency shall not initiate any criminal  
19 investigation unless the survivor gives written consent to file  
20 a criminal complaint.

21 6. A laboratory that receives the kit shall analyze that  
22 evidence and upload any available DNA profiles into the federal  
23 combined DNA index system, unless the survivor has requested in  
24 writing that the laboratory defer analysis of that evidence.

25 7. If a law enforcement agency or laboratory intends to  
26 destroy or otherwise dispose of the kit, the law enforcement  
27 agency shall notify the survivor in writing prior to such  
28 destruction or disposal of the intended date of destruction,  
29 the reasons for the decision, and the options that remain  
30 available for retention and analysis, if any.

31 8. The survivor has the right to be informed, upon the  
32 survivor's request, of the results of the analysis of the  
33 survivor's sexual assault forensic evidence, whether the  
34 analysis yielded a DNA profile, and whether the analysis  
35 yielded a DNA match, either to the named alleged perpetrator

1 or to a suspect already in the federal combined DNA index  
2 system. The survivor has the right to receive this information  
3 through a secure and confidential message in writing from the  
4 laboratory. The message must include the telephone number of  
5 the laboratory so that the survivor can call to receive the  
6 results.

7 9. A defendant or person accused or convicted of a crime  
8 against the survivor shall have no standing to object to any  
9 failure to comply with this chapter, and the failure to provide  
10 a right or notice to the survivor under this chapter shall  
11 not be used by a defendant to seek to have the conviction or  
12 sentence reversed or set aside.

13 10. The failure of a law enforcement agency to take  
14 possession of a kit or to submit that evidence for analysis  
15 does not alter the authority of a law enforcement agency to  
16 take possession of that evidence or to submit that evidence  
17 to the laboratory, and does not alter the authority of the  
18 laboratory to accept and analyze the evidence or to upload  
19 the DNA profile obtained from that evidence into the federal  
20 combined DNA index system.

21 11. The kit shall not be used to prosecute the survivor  
22 for any misdemeanor crimes, or serve as a basis to search for  
23 further evidence of any unrelated misdemeanor crimes.

24 Sec. 11. NEW SECTION. 915A.10 Kit tracking and retention.

25 1. The department of public safety, in cooperation with  
26 other law enforcement agencies, shall develop a statewide kit  
27 tracking system by January 1, 2018. A law enforcement agency  
28 shall participate in the tracking system established pursuant  
29 to this section according to the implementation schedule  
30 established by the department.

31 2. The tracking system shall do all of the following:

32 a. Track the location and status of a kit throughout  
33 the state, including the initial collection pursuant to an  
34 examination performed by a medical provider, the receipt of  
35 and storage by a law enforcement agency, the receipt of and

1 analysis by the state criminalistics laboratory or other  
2 qualified laboratory, the storage, and the destruction of the  
3 kit after completion of testing.

4 *b.* Allow a medical provider completing an examination using  
5 a sexual assault forensic evidence kit, a law enforcement  
6 agency, county attorney, the state criminalistics laboratory or  
7 other qualified laboratory, and other entities with custody of  
8 a kit to update and track the status and location of the kit.

9 *c.* Allow survivors of sexual assault to anonymously track or  
10 receive updates regarding the status of testing of the kit.

11 *d.* Use electronic technology allowing for continuous access  
12 to the tracking system.

13 3. The department of justice in cooperation with the  
14 department of public safety shall submit an annual report  
15 relating to the tracking system beginning January 15, 2019,  
16 and every January 15, thereafter, to the general assembly, and  
17 shall publish the report on the internet site of the department  
18 of justice. The report shall include the following statistics  
19 relating to the sexual assault forensic evidence kits from the  
20 previous calendar year:

21 *a.* The total number of kits in the system statewide.

22 *b.* The total number of kits tested.

23 *c.* The number of kits added, including separate sets of data  
24 by jurisdiction.

25 *d.* The total number of kits that remain untested, including  
26 separate sets of data by jurisdiction.

27 **Sec. 12. NEW SECTION. 915A.11 Law enforcement agency —**  
28 **duties in sexual assault cases.**

29 A law enforcement agency shall do all of the following on or  
30 after January 1, 2018:

31 1. Ensure that a rapid turnaround DNA program is used in the  
32 course of a sexual assault case.

33 2. Take possession of any kit obtained by a medical provider  
34 involved in the case and submit it to the laboratory within  
35 five days after receiving the kit.

1 3. Assign a criminal complaint number to that evidence  
2 within five days after receiving the kit, if the survivor has  
3 given written consent to file a criminal complaint.

4 4. Notify any other law enforcement agency involved in the  
5 case that the agency has jurisdiction over the sexual assault  
6 within five days of making that determination.

7 5. Take possession of a kit within five days after receiving  
8 notice under subsection 4.

9 6. If a law enforcement agency does not submit a kit to  
10 a laboratory within five days of obtaining a kit, the law  
11 enforcement agency shall inform the survivor that the kit has  
12 not been submitted to the laboratory, and the reasons for not  
13 submitting the kit.

14 Sec. 13. NEW SECTION. 915A.12 Laboratory — receiving  
15 sexual assault kit.

16 1. A laboratory that receives a kit on or after January 1,  
17 2018, shall do the following:

18 a. Process the sexual assault forensic evidence, create DNA  
19 profiles when able, and upload qualifying DNA profiles into  
20 the federal DNA combined index system as soon as practically  
21 possible after initially receiving the evidence, unless the  
22 survivor has requested in writing that the laboratory defer  
23 analysis of that evidence.

24 b. If a DNA profile is created, the laboratory shall upload  
25 the profile into the federal DNA combined index system as soon  
26 as practically possible after being notified about the presence  
27 of DNA unless the survivor has requested the laboratory defer  
28 analysis.

29 2. This section does not require a laboratory to test all  
30 items of forensic evidence obtained in a kit. A laboratory  
31 is considered to be in compliance with the provisions of  
32 this section when representative samples of the evidence are  
33 processed by the laboratory in an effort to detect the alleged  
34 perpetrator.

35 3. This section does not require a DNA profile to be

1 uploaded into the federal DNA combined index system if the  
2 DNA profile does not meet federal guidelines regarding the  
3 uploading of DNA profiles into the federal DNA combined index  
4 system.

5 4. A laboratory shall retain all sexual assault forensic  
6 evidence for a minimum of ten years or until ten years after  
7 the alleged survivor reaches eighteen years of age, if the  
8 survivor was a minor when the alleged assault occurred.

9 Sec. 14. NEW SECTION. 915A.13 **Survivors of sexual assault**  
10 **task force.**

11 1. There is hereby established a survivors of sexual assault  
12 task force. The task force shall be staffed by the department  
13 of justice.

14 2. The task force shall consist of the following members.

15 a. Four ex officio, nonvoting members who are members of the  
16 general assembly, appointed as follows:

17 (1) One member of the senate appointed by the majority  
18 leader of the senate.

19 (2) One member of the senate appointed by the minority  
20 leader of the senate.

21 (3) One member of the house of representatives appointed by  
22 the speaker of the house of representatives.

23 (4) One member of the house of representatives appointed by  
24 the minority leader of the house of representatives.

25 b. The following voting members:

26 (1) The director of public health or the director's  
27 designee.

28 (2) A survivor of sexual assault, appointed by the  
29 department of justice.

30 (3) A representative of the crime victim assistance  
31 division of the department of justice.

32 (4) A representative of a rape crisis center, appointed by  
33 the Iowa coalition against sexual assault.

34 (5) The commissioner of the department of public safety or  
35 the commissioner's designee.

1 (6) An officer appointed by the Iowa police chiefs  
2 association.

3 (7) A representative of the state criminalistics  
4 laboratory.

5 (8) An attorney appointed by the Iowa state bar association.

6 (9) A representative of a regents institution, appointed  
7 by the board of regents, whose occupational duties include  
8 the provision of direct services to victims of sexual assault  
9 and whose employer is not under investigation by the federal  
10 department of education for alleged violations of federal law.

11 (10) A representative of organizations that provide  
12 services, education, or outreach to communities of color or  
13 immigrant communities, appointed by the Iowa civil rights  
14 commission.

15 (11) A representative of an organization that provides  
16 services, education, or outreach to lesbian, gay, bisexual, and  
17 transgender individuals, appointed by the Iowa civil rights  
18 commission.

19 (12) A certified sexual assault nurse examiner, appointed  
20 by the board of nursing.

21 3. The task force shall study nationally recognized best  
22 practices and make recommendations regarding the following:

23 *a.* The development and implementation of an effective  
24 mechanism for submitting, tracking, and investigating  
25 complaints regarding the handling of, and responses to, sexual  
26 assault-related crimes by any agency or organization involved  
27 in the handling or response.

28 *b.* The necessity of expanding the right of a survivor to  
29 a counselor as described in section 915A.5 beyond the medical  
30 provider and law enforcement interview settings.

31 *c.* The ongoing evaluation of the implementation of the  
32 rights under this chapter, including the scope of and need for  
33 such rights, and how to best accomplish implementation of the  
34 rights.

35 *d.* Whether the task force should continue its work after the

1 issuance of a report pursuant to subsection 6.

2 4. a. The task force shall collect data regarding reports  
3 of sexual assaults, including arrests, prosecution rates,  
4 access to sexual assault victim services, and any other data  
5 important for its deliberations and recommendations. If  
6 such data does not exist, the task force shall encourage its  
7 creation and maintenance by the department of justice.

8 b. The task force may retain the services of independent  
9 experts who may do the following:

10 (1) Request files and records from any officer, but all such  
11 information shall be kept strictly confidential and reported on  
12 only as aggregated or anonymized data.

13 (2) Conduct confidential interviews with officers, medical  
14 providers, counselors, and others with direct knowledge of the  
15 process of collecting evidence relating to a sexual assault.

16 (3) Provide advice and recommendations to the task force,  
17 within the bounds of confidentiality.

18 5. The task force shall collect feedback from stakeholders,  
19 practitioners, and leadership throughout the state and  
20 local law enforcement, victim services, forensic science  
21 practitioners, and health care communities to develop future  
22 best practices or clinical guidelines regarding the care and  
23 treatment of a survivor.

24 6. a. By January 1, 2019, and every five years thereafter,  
25 the task force shall produce a report that includes findings  
26 and recommendations.

27 b. The task force shall submit the report to the general  
28 assembly, the governor, the department of justice, the  
29 commissioner of public safety, and to victims' rights  
30 organizations and rape crisis centers as determined by the task  
31 force.

32 7. The task force shall convene every five years until it  
33 is determined that all rights described in this chapter have  
34 been effectively implemented. A determination of effective  
35 implementation of the rights described in this chapter shall be

1 made by a majority vote of the members of the task force prior  
2 to adopting the report under subsection 6.

3 8. Legislative members of the task force shall not receive  
4 a per diem and shall not receive reimbursement for necessary  
5 travel and actual expenses for performance of their duties  
6 as members of the task force. Notwithstanding section  
7 7E.6, nonlegislative members shall not receive a per diem or  
8 reimbursement for travel and actual expenses for performance of  
9 their duties as members of the task force.

10 Sec. 15. REPEAL. Section 709.22, Code 2017, is repealed.

11 DIVISION II

12 APPROPRIATIONS

13 Sec. 16. SURVIVORS OF SEXUAL ASSAULT TASK FORCE —  
14 APPROPRIATIONS. There is appropriated from the general fund  
15 of the state to the department of justice for the following  
16 fiscal years, the following amounts, or so much thereof as is  
17 necessary, to be used for the purposes designated:

18 For development of a survivor notification document,  
19 maintaining the survivors of sexual assault task force created  
20 pursuant to this Act, and other related matters:

21	1. FY 2017-2018:		
22	.....	\$	5,000
23	2. FY 2018-2019:		
24	.....	\$	5,000
25	3. FY 2019-2020:		
26	.....	\$	5,000
27	4. FY 2020-2021:		
28	.....	\$	5,000
29	5. FY 2021-2022:		
30	.....	\$	5,000

31 EXPLANATION

32 The inclusion of this explanation does not constitute agreement with  
33 the explanation's substance by the members of the general assembly.

34 This bill establishes rights for sexual assault survivors.  
35 The rights established in the bill are in addition to the crime

1 victim rights established in Code chapter 915.

2       DEFINITIONS. The bill defines "sexual assault" to mean  
3 sexual abuse as defined in Code section 709.1 or incest as  
4 defined in Code section 726.2, or any other sexual offense by  
5 which a victim has allegedly had sufficient contact with an  
6 alleged offender to be deemed a significant exposure of bodily  
7 fluids.

8       The bill defines "survivor" to mean an alleged victim of  
9 a sexual assault. "Survivor" includes the parent, guardian,  
10 spouse, or any other person related to the survivor by  
11 consanguinity or affinity to the second degree, or any other  
12 lawful representative of the survivor, if the survivor is  
13 incompetent, or deceased; unless such person is the alleged  
14 perpetrator.

15       The bill defines "kit" to mean a sexual assault forensic  
16 evidence kit containing a human biological specimen collected  
17 by a medical provider during a forensic medical evidentiary  
18 examination from an alleged sexual assault survivor.

19       SURVIVOR RIGHTS. The bill provides that a survivor has  
20 the right to be free from intimidation, harassment, and  
21 abuse. During the course of any judicial proceeding, a court  
22 shall make reasonable efforts to provide the survivor and  
23 the survivor's family members, friends, and witnesses with a  
24 secure waiting area or room that is separate from the waiting  
25 area for the alleged perpetrator and the alleged perpetrator's  
26 family members, friends, witnesses, and attorneys; and separate  
27 from the county attorney's office. The bill provides that a  
28 survivor has the right to be treated with fairness and respect  
29 for the survivor's privacy and dignity. During the course of  
30 any judicial proceeding, a court shall, upon the request of the  
31 survivor, clear the courtroom of all persons when the survivor  
32 is testifying regarding the case in any civil or criminal  
33 trial, except that parties to the case and their immediate  
34 families or guardians, attorneys and their secretaries,  
35 officers of the court, jurors, members of the media, court

1 reporters, and, at the request of the survivor, witnesses  
2 designated by the county attorney may remain in the courtroom.

3 The bill provides that the survivor shall not be required to  
4 submit to a polygraph examination as a prerequisite to filing  
5 an accusatory pleading.

6 The bill provides that upon request of a survivor, a law  
7 enforcement agency shall inform the survivor of the status of  
8 analyzing the kit evidence or other crime scene evidence from  
9 the survivor's case. The law enforcement agency may, at its  
10 discretion, require that the survivor's request be in writing.  
11 The bill further provides that the law enforcement agency shall  
12 respond to the victim's request with either an oral or written  
13 communication, or by electronic mail, if an electronic mail  
14 address is available.

15 COUNSELOR — RIGHTS. The bill provides that a survivor  
16 has the right to consult with a counselor during any medical  
17 evidentiary examination, or during any interview about a sexual  
18 assault with a peace officer, county attorney, or defense  
19 attorney. A survivor retains this right even if the survivor  
20 has waived the right in a previous examination or interview.

21 The bill provides that communications between a survivor  
22 and a counselor are confidential and privileged, including  
23 information disclosed in the presence of any third persons  
24 conducting a medical evidentiary examination or a law  
25 enforcement interview.

26 The bill provides that a survivor retains the right to have a  
27 counselor present during all stages of any medical examination,  
28 investigation, or other interaction with representatives from  
29 the legal or criminal justice systems.

30 SURVIVOR NOTIFICATION DOCUMENT. The bill requires the  
31 department of justice to develop a survivor notification  
32 document to be distributed by a peace officer and a medical  
33 provider upon initial contact with a survivor. The survivor  
34 notification document shall be in clear language that is  
35 comprehensible to a person proficient in English at the fifth

1 grade level, accessible to persons with visual disabilities,  
2 and available in all major languages of the state.

3 PEACE OFFICER OR COUNTY ATTORNEY INTERACTION. The bill  
4 provides that upon initial interaction with a survivor a  
5 peace officer or county attorney shall inform the survivor  
6 of the following rights: to receive a survivor notification  
7 document if the survivor has not already received a survivor  
8 notification document or does not remember receiving a survivor  
9 notification document; to consult with a counselor during any  
10 interview by a peace officer, county attorney, or defense  
11 attorney, unless no counselor can be summoned in a reasonably  
12 timely manner; and to be interviewed by a peace officer or  
13 county attorney of the same gender or opposite gender as  
14 the survivor, unless no such officer or county attorney is  
15 reasonably available.

16 The bill also provides that a peace officer shall, upon  
17 written request by a survivor, furnish a free, complete, and  
18 unaltered copy of all law enforcement reports concerning the  
19 case, at the time the investigation has been closed by the law  
20 enforcement agency.

21 MEDICAL PROVIDER INTERACTION. The bill provides that a  
22 medical provider shall not charge a survivor for the cost of  
23 the medical evidentiary examination portion of the examination  
24 either directly or indirectly. A medical provider shall  
25 provide contraception to a female survivor, if the survivor so  
26 chooses, within four hours of the medical examination, and at  
27 no cost to the survivor.

28 Prior to a medical provider commencing a medical evidentiary  
29 examination of a survivor, the bill provides that a survivor  
30 shall be informed of the survivor's rights by the medical  
31 provider. The survivor shall be entitled to the following: to  
32 receive a survivor notification document; to consult with a  
33 counselor before the commencement of the medical evidentiary  
34 examination, unless no counselor can be summoned in a  
35 reasonably timely manner; to know the ramifications of delaying

1 the medical evidentiary examination if a counselor is unable  
2 to be summoned in a timely manner; and to shower, at no cost,  
3 unless showering facilities are not available after the medical  
4 evidentiary examination.

5 The bill provides that a medical provider, upon conducting a  
6 medical evidentiary examination, shall collect the evidence in  
7 a sexual assault forensic evidence kit. The bill requires the  
8 following: the kit shall be delivered to the law enforcement  
9 agency believed to have jurisdiction over the sexual assault  
10 within 24 hours of collecting any sexual assault forensic  
11 evidence; the law enforcement agency with jurisdiction over  
12 the assault shall deliver the kit to the laboratory as soon  
13 as possible or within five days of receiving the kit, unless  
14 the survivor requests in writing for the laboratory to defer  
15 analysis of the evidence; the laboratory shall retain the kit  
16 for a minimum of 10 years before it is destroyed, or until  
17 the survivor reaches 28 years of age if the survivor was a  
18 minor when the assault occurred; the laboratory that receives a  
19 kit shall analyze that evidence and upload any available DNA  
20 profiles into the federal combined DNA indexed system, unless  
21 the survivor has requested in writing for the laboratory to  
22 defer analysis of that evidence; if a law enforcement agency  
23 or laboratory intends to destroy or otherwise dispose of a kit  
24 before the law enforcement agency shall notify the survivor  
25 in writing before that evidence is destroyed; and a survivor  
26 has the right to be informed, upon the survivor's request, of  
27 the results of the analysis of the survivor's sexual assault  
28 forensic evidence.

29 The bill provides that a defendant or person accused  
30 or convicted of a crime against the survivor shall have  
31 no standing to object to any failure to comply with the  
32 requirements of the bill. The bill provides that the kit shall  
33 not be used to prosecute a survivor for any misdemeanor crimes,  
34 or serve as a basis to search for further evidence of any  
35 unrelated misdemeanor crimes.

1 The bill provides that failure to comply with the  
2 requirements under the bill does not constitute grounds in any  
3 civil or criminal proceeding for challenging the validity of a  
4 database match or of any database information, and any evidence  
5 of that DNA record shall not be excluded by a court on those  
6 grounds.

7 The bill provides that the kit shall not be used to prosecute  
8 the survivor for any misdemeanor crimes.

9 KIT TRACKING SYSTEM. The bill requires the tracking system  
10 to do the following: track the location and status of a kit  
11 throughout the state, including the initial collection in  
12 examinations performed by a medical provider, the receipt and  
13 storage at a law enforcement agency, the receipt and analysis  
14 at the laboratory or other qualified laboratory, the storage,  
15 and the destruction after completion of testing. The tracking  
16 system established by the bill shall also allow the entities in  
17 the custody of a sexual assault forensic evidence kit to update  
18 and track the status and location of the kit, allow survivors  
19 to anonymously track or receive updates regarding the status of  
20 the testing of the kit, and use electronic technology allowing  
21 for continuous access to the tracking system.

22 The bill provides that the department of justice, in  
23 cooperation with the department of public safety, shall submit  
24 an annual report relating to the tracking system beginning  
25 January 15, 2019, and every January 15, thereafter, to the  
26 general assembly, and shall publish the report on the internet  
27 site of the department of justice. The report shall include  
28 statistics from the previous calendar year including: the  
29 total number of kits in the system statewide; the total number  
30 of kits tested; the number of kits added, including separate  
31 sets of data by jurisdiction; and the total number of kits  
32 that remain untested, including separate sets of data by  
33 jurisdiction.

34 LAW ENFORCEMENT AGENCY — SEXUAL ASSAULTS AFTER JANUARY 1,  
35 2018. The bill provides that a law enforcement agency shall

1 do the following on or after January 1, 2018: ensure that  
2 a rapid turnaround DNA program is in place; take possession  
3 of the evidence from the medical provider and submit it to  
4 the laboratory as soon as possible or within five days after  
5 receiving the kit; assign a criminal complaint number to  
6 the evidence within five days after receiving the kit if  
7 the survivor has given written consent to file a criminal  
8 complaint; notify another law enforcement agency that the  
9 agency has jurisdiction over the sexual assault within five  
10 days of making that determination; and notify the survivor  
11 within five days of receiving a kit that the kit has not been  
12 submitted to the laboratory and the reasons for not submitting  
13 the kit.

14 STATE CRIMINALISTICS LABORATORY — RECEIVING SEXUAL ASSAULT  
15 KIT AFTER JANUARY 1, 2018. A laboratory that receives a kit  
16 on or after January 1, 2018, shall do the following: process  
17 sexual assault forensic evidence, and if a DNA profile is  
18 created, the laboratory shall upload the profile into the  
19 federal DNA combined index system as soon as practically  
20 possible after being notified about the presence of DNA, unless  
21 the survivor has requested the laboratory defer analysis.

22 TASK FORCE. The bill establishes a survivors of sexual  
23 assault task force. The task force shall be staffed by the  
24 department of justice. The bill provides that the task force  
25 shall consist of four ex officio, nonvoting legislative members  
26 and 12 voting members from various stakeholder agencies and  
27 organizations.

28 The task force shall study nationally recognized best  
29 practices and make recommendations regarding the following:  
30 the development and implementation of an effective  
31 mechanism for submitting, tracking, and investigating  
32 complaints regarding the handling of and response to sexual  
33 assault-related crimes by any agency or organization involved  
34 in the handling or response; the necessity of expanding the  
35 right to a counselor beyond the medical provider and law

1 enforcement interview settings; the ongoing evaluation of the  
2 implementation of the survivor rights enumerated under the  
3 bill, including the scope and need for such rights, and how  
4 to best accomplish implementing the rights; and whether the  
5 task force should continue its work after the issuance of the  
6 report.

7 The bill provides that the task force shall collect  
8 data regarding reporting of a sexual assault, including  
9 arrests, prosecution rates, access to sexual assault victims  
10 services, and any other data important for its deliberations  
11 and recommendations. If such data does not exist, the bill  
12 requires that the task force shall encourage its creation and  
13 maintenance by the department of justice.

14 By January 1, 2019, and every five years thereafter, the  
15 bill provides that the task force shall produce a report that  
16 includes findings and recommendations. The bill requires that  
17 the task force submit the report to the general assembly, the  
18 governor, the department of justice, the commissioner of public  
19 safety, and to victims' rights organizations and rape crisis  
20 centers as determined by the task force. The bill requires the  
21 task force to convene every five years until it is determined  
22 that all rights described within the bill have been effectively  
23 implemented. A determination of effective implementation of  
24 the rights described in the bill and whether to reconvene the  
25 task force shall be made by a majority vote of the current  
26 members of the task force prior to adopting the final report.

27 APPROPRIATIONS. The bill appropriates \$5,000 from the  
28 general fund of the state to the department of justice for  
29 each of the next five fiscal years, for creating the survivor  
30 notification document and maintaining the sexual assault  
31 survivors task force and other related matters.