

Senate File 2220 - Introduced

SENATE FILE 2220

BY PETERSEN

A BILL FOR

1 An Act relating to the rights of sexual assault survivors.

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

1 Section 1. Section 709.10, Code 2018, is amended by adding
2 the following new subsection:

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

5 Sec. 2. NEW SECTION. **915A.1 Applicability — survivors of**
6 **sexual assault.**

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

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

11 For the purposes of this chapter, unless the context
12 otherwise requires:

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

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

20 3. "*Laboratory*" means the state criminalistics laboratory
21 established in chapter 691.

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

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

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

31 7. "*Rapid turnaround DNA program*" is a program adopted
32 jointly by a law enforcement agency, medical provider, and
33 laboratory for the training of sexual assault team personnel in
34 the selection of representative samples of forensic evidence
35 from an alleged survivor to be the best evidence based on a

1 medical evaluation and patient history, the collection and
2 preservation of that evidence, and the transfer of the evidence
3 directly from the medical provider to the laboratory.

4 8. "*Sexual assault*" means sexual abuse as defined in section
5 709.1 or incest as defined in section 726.2, or any other
6 sexual offense by which a victim has allegedly had sufficient
7 contact with an alleged offender to be deemed a significant
8 exposure, as defined in section 915.40.

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

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

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

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

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

26 1. A survivor has the right to be reasonably protected
27 from the alleged perpetrator of the sexual assault and persons
28 acting on behalf of the alleged perpetrator.

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

1 from the county attorney's office.

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

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

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

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

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

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

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

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

12 4. A survivor's waiver of the right to a counselor is
13 privileged.

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

18 **Sec. 7. NEW SECTION. 915A.6 Survivor notification document.**

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

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

35 2. Telephone and internet contact information for nearby

1 rape crisis centers and counselors.

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

6 4. Instructions for requesting the results of any analysis
7 of the forensic evidence obtained from the survivor.

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

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

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

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

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

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

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

32 Sec. 9. NEW SECTION. 915A.8 Initial interaction by a
33 medical provider.

34 1. A medical provider shall not charge a survivor for
35 the cost of the medical evidentiary examination portion of a

1 medical examination either directly or indirectly.

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

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

9 a. To receive a survivor notification document.

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

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

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

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

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

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

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

32 2. The law enforcement agency with jurisdiction over the
33 sexual assault shall deliver the kit to the laboratory as
34 soon as possible or within five days of receiving the kit,
35 unless the survivor requests in writing for the laboratory to

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

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

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

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

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

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

29 8. The survivor has the right to be informed, upon the
30 survivor's request, of the results of the analysis of the
31 survivor's sexual assault forensic evidence, whether the
32 analysis yielded a DNA profile, and whether the analysis
33 yielded a DNA match, either to the named alleged perpetrator
34 of the sexual assault or to a suspect already in the federal
35 combined DNA index system. The survivor has the right to

1 receive this information through a secure and confidential
2 message in writing from the laboratory. The message must
3 include the telephone number of the laboratory so that the
4 survivor can call to receive the results.

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

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

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

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

23 1. The department of public safety, in cooperation with
24 other law enforcement agencies, shall develop a statewide kit
25 tracking system by January 1, 2019. A law enforcement agency
26 shall participate in the tracking system established pursuant
27 to this section according to the implementation schedule
28 established by the department.

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

30 a. Track the location and status of a kit throughout
31 the state, including the initial collection pursuant to an
32 examination performed by a medical provider, the receipt of
33 and storage by a law enforcement agency, the receipt of and
34 analysis by the state criminalistics laboratory or other
35 qualified laboratory, the storage, and the destruction of the

1 kit after completion of testing.

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

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

9 *d.* Use electronic technology allowing for continuous access
10 to the tracking system.

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

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

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

21 *c.* The number of kits added, including separate sets of data
22 by jurisdiction.

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

25 Sec. 12. NEW SECTION. 915A.11 Law enforcement agency —
26 duties in sexual assault cases.

27 A law enforcement agency shall do all of the following on or
28 after January 1, 2019:

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

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

34 3. Assign a criminal complaint number to that evidence
35 within five days after receiving the kit, if the survivor has

1 given written consent to file a criminal complaint.

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

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

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

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

14 1. A laboratory that receives a kit on or after January 1,
15 2019, shall do the following:

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

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

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

33 3. This section does not require a DNA profile to be
34 uploaded into the federal DNA combined index system if the
35 DNA profile does not meet federal guidelines regarding the

1 uploading of DNA profiles into the federal DNA combined index
2 system.

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

7 Sec. 14. NEW SECTION. 915A.13 Survivors of sexual assault
8 task force.

9 1. A survivors of sexual assault task force is established.
10 The task force shall be staffed by the department of justice.

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

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

14 (1) One member of the senate appointed by the majority
15 leader of the senate.

16 (2) One member of the senate appointed by the minority
17 leader of the senate.

18 (3) One member of the house of representatives appointed by
19 the speaker of the house of representatives.

20 (4) One member of the house of representatives appointed by
21 the minority leader of the house of representatives.

22 b. The following voting members:

23 (1) The director of public health or the director's
24 designee.

25 (2) A survivor of sexual assault, appointed by the
26 department of justice.

27 (3) A representative of the crime victim assistance
28 division of the department of justice.

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

31 (5) The commissioner of the department of public safety or
32 the commissioner's designee.

33 (6) An officer appointed by the Iowa police chiefs
34 association.

35 (7) A representative of the state criminalistics

1 laboratory.

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

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

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

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

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

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

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

25 b. The necessity of expanding the right of a survivor to
26 a counselor as described in section 915A.5 beyond the medical
27 provider and law enforcement interview settings.

28 c. The ongoing evaluation of the implementation of the
29 rights under this chapter, including the scope of and need for
30 such rights, and how to best accomplish implementation of the
31 rights.

32 d. Whether the task force should continue its work after the
33 issuance of a report pursuant to subsection 6.

34 4. a. The task force shall collect data regarding reports
35 of sexual assaults, including arrests, prosecution rates,

1 access to sexual assault victim services, and any other data
2 important for its deliberations and recommendations. If
3 such data does not exist, the task force shall encourage its
4 creation and maintenance by the department of justice.

5 *b.* The task force may retain the services of independent
6 experts who may do the following:

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

10 (2) Conduct confidential interviews with officers, medical
11 providers, counselors, and others with direct knowledge of the
12 process of collecting evidence relating to sexual assaults.

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

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

21 6. *a.* By January 1, 2020, and every five years thereafter,
22 the task force shall produce a report that includes findings
23 and recommendations.

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

29 7. The task force shall convene every five years until it
30 is determined that all rights described in this chapter have
31 been effectively implemented. A determination of effective
32 implementation of the rights described in this chapter shall be
33 made by a majority vote of the members of the task force prior
34 to adopting the report under subsection 6.

35 8. Legislative members of the task force shall not receive

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

7 Sec. 15. REPEAL. Section 709.22, Code 2018, is repealed.

8 EXPLANATION

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

11 This bill establishes rights for sexual assault survivors.
12 The rights established in the bill are in addition to the crime
13 victim rights established in Code chapter 915.

14 DEFINITIONS. The bill defines "sexual assault" to mean
15 sexual abuse as defined in Code section 709.1 or incest as
16 defined in Code section 726.2, or any other sexual offense by
17 which a victim has allegedly had sufficient contact with an
18 alleged offender to be deemed a significant exposure of bodily
19 fluids.

20 The bill defines "survivor" to mean an alleged victim of
21 a sexual assault. "Survivor" includes a parent, guardian,
22 spouse, or any other person related to the survivor by
23 consanguinity or affinity to the second degree, or any other
24 lawful representative of the survivor, if the survivor is
25 incompetent, or deceased, unless such person is the alleged
26 perpetrator.

27 The bill defines "kit" to mean a sexual assault forensic
28 evidence kit containing a human biological specimen collected
29 by a medical provider during a forensic medical evidentiary
30 examination from an alleged sexual assault survivor.

31 SURVIVOR RIGHTS. The bill provides that a survivor has
32 the right to be free from intimidation, harassment, and
33 abuse. During the course of any judicial proceeding, a court
34 shall make reasonable efforts to provide the survivor and
35 the survivor's family members, friends, and witnesses with a

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

15 The bill provides that the survivor shall not be required to
16 submit to a polygraph examination as a prerequisite to filing
17 an accusatory pleading.

18 The bill provides that upon request of a survivor, a law
19 enforcement agency shall inform the survivor of the status of
20 analyzing the kit evidence or other crime scene evidence from
21 the survivor's case. The law enforcement agency may, at its
22 discretion, require that the survivor's request be in writing.
23 The bill further provides that the law enforcement agency shall
24 respond to the victim's request with either an oral or written
25 communication, or by electronic mail, if an electronic mail
26 address is available.

27 COUNSELOR — RIGHTS. The bill provides that a survivor
28 has the right to consult with a counselor during any medical
29 evidentiary examination, or during any interview about a sexual
30 assault with a peace officer, county attorney, or defense
31 attorney. A survivor retains this right even if the survivor
32 has waived the right in a previous examination or interview.

33 The bill provides that communications between a survivor
34 and a counselor are confidential and privileged, including
35 information disclosed in the presence of any third persons

1 conducting a medical evidentiary examination or a law
2 enforcement interview.

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

7 SURVIVOR NOTIFICATION DOCUMENT. The bill requires the
8 department of justice to develop a survivor notification
9 document to be distributed by a peace officer and a medical
10 provider upon initial contact with a survivor. The survivor
11 notification document shall be in clear language that is
12 comprehensible to a person proficient in English at the fifth
13 grade level, accessible to persons with visual disabilities,
14 and available in all major languages of the state.

15 PEACE OFFICER OR COUNTY ATTORNEY INTERACTION. The bill
16 provides that upon initial interaction with a survivor a
17 peace officer or county attorney shall inform the survivor
18 of the following rights: to receive a survivor notification
19 document if the survivor has not already received a survivor
20 notification document or does not remember receiving a survivor
21 notification document; to consult with a counselor during any
22 interview by a peace officer, county attorney, or defense
23 attorney, unless no counselor can be summoned in a reasonably
24 timely manner; and to be interviewed by a peace officer or
25 county attorney of the same gender or opposite gender as
26 the survivor, unless no such officer or county attorney is
27 reasonably available.

28 The bill also provides that a peace officer shall, upon
29 written request by a survivor, furnish a free, complete, and
30 unaltered copy of all law enforcement reports concerning the
31 case, at the time the investigation has been closed by the law
32 enforcement agency.

33 MEDICAL PROVIDER INTERACTION. The bill provides that a
34 medical provider shall not charge a survivor for the cost of
35 the medical evidentiary examination portion of the examination

1 either directly or indirectly. A medical provider shall
2 provide contraception to a female survivor, if the survivor so
3 chooses, within four hours of the medical examination, and at
4 no cost to the survivor.

5 Prior to a medical provider commencing a medical evidentiary
6 examination of a survivor, the bill provides that a survivor
7 shall be informed of the survivor's rights by the medical
8 provider. The survivor shall be entitled to the following: to
9 receive a survivor notification document; to consult with a
10 counselor before the commencement of the medical evidentiary
11 examination, unless no counselor can be summoned in a
12 reasonably timely manner; to know the ramifications of delaying
13 the medical evidentiary examination if a counselor is unable
14 to be summoned in a timely manner; and to shower, at no cost,
15 unless showering facilities are not available after the medical
16 evidentiary examination.

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

1 before the law enforcement agency shall notify the survivor
2 in writing before that evidence is destroyed; and a survivor
3 has the right to be informed, upon the survivor's request, of
4 the results of the analysis of the survivor's sexual assault
5 forensic evidence.

6 The bill provides that a defendant or person accused
7 or convicted of a crime against the survivor shall have
8 no standing to object to any failure to comply with the
9 requirements of the bill. The bill provides that the kit shall
10 not be used to prosecute a survivor for any misdemeanor crimes,
11 or serve as a basis to search for further evidence of any
12 unrelated misdemeanor crimes.

13 The bill provides that failure to comply with the
14 requirements under the bill does not constitute grounds in any
15 civil or criminal proceeding for challenging the validity of a
16 database match or of any database information, and any evidence
17 of that DNA record shall not be excluded by a court on those
18 grounds.

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

21 KIT TRACKING SYSTEM. The bill requires the tracking system
22 to do the following: track the location and status of a kit
23 throughout the state, including the initial collection in
24 examinations performed by a medical provider, the receipt and
25 storage at a law enforcement agency, the receipt and analysis
26 at the laboratory or other qualified laboratory, the storage,
27 and the destruction after completion of testing. The tracking
28 system established by the bill shall also allow the entities in
29 the custody of a sexual assault forensic evidence kit to update
30 and track the status and location of the kit, allow survivors
31 to anonymously track or receive updates regarding the status of
32 the testing of the kit, and use electronic technology allowing
33 for continuous access to the tracking system.

34 The bill provides that the department of justice, in
35 cooperation with the department of public safety, shall submit

1 an annual report relating to the tracking system beginning
2 January 15, 2020, and every January 15, thereafter, to the
3 general assembly, and shall publish the report on the internet
4 site of the department of justice. The report shall include
5 statistics from the previous calendar year including: the
6 total number of kits in the system statewide; the total number
7 of kits tested; the number of kits added, including separate
8 sets of data by jurisdiction; and the total number of kits
9 that remain untested, including separate sets of data by
10 jurisdiction.

11 LAW ENFORCEMENT AGENCY — SEXUAL ASSAULTS AFTER JANUARY 1,
12 2019. The bill provides that a law enforcement agency shall
13 do the following on or after January 1, 2019: ensure that
14 a rapid turnaround DNA program is in place; take possession
15 of the evidence from the medical provider and submit it to
16 the laboratory as soon as possible or within five days after
17 receiving the kit; assign a criminal complaint number to
18 the evidence within five days after receiving the kit if
19 the survivor has given written consent to file a criminal
20 complaint; notify another law enforcement agency that the
21 agency has jurisdiction over the sexual assault within five
22 days of making that determination; and notify the survivor
23 within five days of receiving a kit that the kit has not been
24 submitted to the laboratory and the reasons for not submitting
25 the kit.

26 STATE CRIMINALISTICS LABORATORY — RECEIVING SEXUAL ASSAULT
27 KIT AFTER JANUARY 1, 2019. A laboratory that receives a kit
28 on or after January 1, 2019, shall do the following: process
29 sexual assault forensic evidence, and if a DNA profile is
30 created, the laboratory shall upload the profile into the
31 federal DNA combined index system as soon as practically
32 possible after being notified about the presence of DNA, unless
33 the survivor has requested the laboratory defer analysis.

34 TASK FORCE. The bill establishes a survivors of sexual
35 assault task force. The task force shall be staffed by the

1 department of justice. The bill provides that the task force
2 shall consist of four ex officio, nonvoting legislative members
3 and 12 voting members from various stakeholder agencies and
4 organizations.

5 The task force shall study nationally recognized best
6 practices and make recommendations regarding the following:
7 the development and implementation of an effective
8 mechanism for submitting, tracking, and investigating
9 complaints regarding the handling of and response to sexual
10 assault-related crimes by any agency or organization involved
11 in the handling or response; the necessity of expanding the
12 right to a counselor beyond the medical provider and law
13 enforcement interview settings; the ongoing evaluation of the
14 implementation of the survivor rights enumerated under the
15 bill, including the scope and need for such rights, and how
16 to best accomplish implementing the rights; and whether the
17 task force should continue its work after the issuance of the
18 report.

19 The bill provides that the task force shall collect
20 data regarding reporting of a sexual assault, including
21 arrests, prosecution rates, access to sexual assault victims
22 services, and any other data important for its deliberations
23 and recommendations. If such data does not exist, the bill
24 requires that the task force shall encourage its creation and
25 maintenance by the department of justice.

26 By January 1, 2019, and every five years thereafter, the
27 bill provides that the task force shall produce a report that
28 includes findings and recommendations. The bill requires that
29 the task force submit the report to the general assembly, the
30 governor, the department of justice, the commissioner of public
31 safety, and to victims' rights organizations and rape crisis
32 centers as determined by the task force. The bill requires the
33 task force to convene every five years until it is determined
34 that all rights described within the bill have been effectively
35 implemented. A determination of effective implementation of

1 the rights described in the bill and whether to reconvene the
2 task force shall be made by a majority vote of the current
3 members of the task force prior to adopting the final report.