

No. 2019-29

AN ACT

SB 399

Amending the act of November 29, 2006 (P.L.1471, No.165), entitled, "An act providing for a sexual assault evidence collection program and for powers and duties of the Department of Health and the Pennsylvania State Police; establishing civil immunity; and providing for rights of sexual assault victims," further providing for sexual assault evidence collection program, for rights of sexual assault victims and for report by Pennsylvania State Police.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 3(a)(6) and (c)(1) of the act of November 29, 2006 (P.L.1471, No.165), known as the Sexual Assault Testing and Evidence Collection Act, amended October 24, 2018 (P.L.1192, No.164), are amended and the section is amended by adding a subsection to read:

Section 3. Sexual assault evidence collection program.

(a) Establishment.—There is hereby established a Statewide sexual assault evidence collection program to promote the health and safety of victims of sexual assault and to facilitate the prosecution of persons accused of sexual assault. This program shall be administered by the department. Under this program the department shall:

* * *

(6) Establish a designated telephone number for the use of health care facilities who have notified local law enforcement *or the Pennsylvania State Police* to take possession of sexual assault evidence that has not been completed within 72 hours. *The following apply:*

(i) The telephone line shall be staffed by a live person during regular business hours.

(ii) The telephone line shall allow the health care facility to leave a voicemail.

(iii) After receiving a report by a health care facility under this paragraph, the department shall contact local law enforcement or the Pennsylvania State Police to take possession of the sexual assault evidence.

* * *

(c) Submission and analysis.—The following shall apply to all sexual assault evidence obtained by a health care facility, at the request or consent of the victim, on or after the effective date of this subsection:

(1) Within 12 hours of collection of sexual assault evidence, the health care facility shall notify the local law enforcement agency of the jurisdiction where the reported sexual assault occurred *or the Pennsylvania State Police if the jurisdiction is unknown*. The local law enforcement agency *or the Pennsylvania State Police* shall take possession of the sexual assault evidence within 72 hours of receiving notice. If local law enforcement *or the Pennsylvania State Police* has not

taken possession of the sexual assault evidence within 72 hours of notification, the health care facility shall notify the department through the designated telephone number. For those cases in which the victim has not yet consented to testing of the evidence, the evidence shall be preserved and stored for a period of no less than **[two years]** *the duration of the maximum applicable criminal statute of limitations*, unless consent is provided before that period. The Pennsylvania State Police, in consultation with the Pennsylvania Chiefs of Police Association and the Pennsylvania District Attorneys Association, shall establish policies for local law enforcement agencies relating to the storage and preservation of the evidence, *including, but not limited to, the storage and preservation of evidence with unknown jurisdiction and the provision of anonymous submissions.*

* * *

(c.1) Anonymous submissions.—The following shall apply to sexual assault evidence obtained by a health care facility at the request or with the consent of the victim who does not wish to make a report to law enforcement:

(1) Within 12 hours of collection of the sexual assault evidence, the health care facility shall notify the local law enforcement agency of the jurisdiction where the reported sexual assault occurred. If the victim does not wish to state or does not know where the sexual assault occurred, the health care facility shall notify the Pennsylvania State Police. The local law enforcement agency or Pennsylvania State Police shall take possession of the sexual assault evidence within 72 hours of receiving notice.

(2) The Pennsylvania State Police shall develop a form for the health care facility to attest that the victim gave consent and wishes to remain anonymous. The Pennsylvania State Police shall also develop a procedure to track the rape kit, which permits the victim to make a report to law enforcement and preserves the evidence for the duration of the maximum applicable criminal statute of limitations.

(3) Within 15 days of receiving notice on the required form of consent to the testing of the sexual assault evidence, the local law enforcement agency or Pennsylvania State Police shall submit the evidence awaiting testing to a laboratory approved by the department for testing or analysis.

(4) A laboratory shall complete the testing or analysis of sexual assault evidence submitted under this section within six months from the date of receipt of the evidence.

(5) The failure of a health care facility, local law enforcement agency or the Pennsylvania State Police to submit the sexual assault evidence in accordance with paragraph (1) or (3) shall not alter the authority of a local law enforcement agency, the Pennsylvania State Police or the authority of a laboratory approved by the department to accept and analyze the evidence.

* * *

Section 2. Section 5(b) and (c) of the act are amended, subsection (a) is amended by adding paragraphs and the section is amended by adding a subsection to read:

Section 5. Rights of sexual assault victims.

(a) General rule.—In addition to the rights provided under the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act, a sexual assault victim, guardian of a sexual assault victim or close relative of a deceased sexual assault victim shall have all of the following rights, if requested by the victim, guardian or relative:

* * *

(4) The right to not be prevented from, or charged for, receiving a medical forensic examination.

(5) The right to:

(i) subject to paragraph (6) and section 3(c)(1), have a sexual assault evidence collection kit or its probative contents relating to the victim preserved, without charge, for the duration of the maximum applicable criminal statute of limitations; and

(ii) be informed in writing of policies governing the collection and preservation of a sexual assault evidence collection kit.

(6) The right to, upon written request, receive written notification from the appropriate official with custody of a sexual assault evidence collection kit or its probative contents relating to the victim not later than 60 days before the date of the intended destruction or disposal of the sexual assault evidence collection kit or its probative contents.

(7) The right to consult with a sexual assault counselor.

(8) The right to receive information concerning availability of protective orders and policies related to the enforcement of protective orders.

(9) The right to receive information about the availability of, and eligibility for, victim compensation and restitution.

(10) The right to be informed of the rights under this subsection.

(b) Notification.—

(1) A victim, guardian or relative who requests to be notified under subsection (a)(3) **or** (6) must provide a current address and telephone number to the attorney representing the Commonwealth and to the local law enforcement agency that is investigating the offense. The victim, guardian or relative must inform the attorney representing the Commonwealth and the local law enforcement agency of any change in the address or telephone number.

(2) A victim, guardian or relative may designate a person, including an entity that provides services to victims of sexual assault, to receive any notice requested under subsection (a)(3) **or** (6).

(3) The appropriate official with custody of the sexual assault evidence collection kit under subsection (a)(6) shall collaborate with a sexual assault counselor to employ best practices when notifying a victim of information pertinent to the victim.

(4) The Attorney General shall, in consultation with the office of victim advocate, the Pennsylvania State Police, the Pennsylvania Chiefs of Police Association, the Pennsylvania District Attorneys Association

and the Pennsylvania Coalition Against Rape, develop a standard protocol for notifying sexual assault victims of information relating to evidence gathered regarding the victim. The Office of Victim Advocate shall disseminate the standard protocol developed under this paragraph to law enforcement agencies, rape crisis centers, sexual assault counselors and health care facilities that the Office of Victim Advocate determines are likely to encounter sexual assault victims. The Attorney General, the Pennsylvania State Police, the Pennsylvania Chiefs of Police Association, the Pennsylvania District Attorneys Association, the Pennsylvania Coalition Against Rape and the Office of Victim Advocate shall make the standard protocol available on a publicly accessible Internet website.

(b.1) Anonymous reporters.—

(1) A victim who has chosen to make an anonymous report may still elect to receive notification under this section.

(2) The form for consent for anonymous testing shall include a provision for submission of contact information for a victim requesting notification.

(3) The contact information provided for the purposes of notification shall not, without permission from the victim, be used for any other purpose, including contacting the victim for investigative purposes.

(c) [Definition.—As used in this section, the term "close] Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Close relative of a deceased sexual assault [victim" means an] victim." An individual who:

(1) was the spouse of a deceased sexual assault victim at the time of the victim's death; or

(2) is a parent, legal guardian or adult brother, sister or child of a deceased sexual assault victim.

"Sexual assault counselor." As defined in 42 Pa.C.S. § 5945.1 (relating to confidential communications with sexual assault counselors).

Section 3. Section 6 of the act, added October 24, 2018 (P.L.1192, No.164), is amended to read:

Section 6. Report by Pennsylvania State Police.

In consultation with the department, PCAR and, as necessary with local law enforcement, the Pennsylvania State Police shall compile the following data and submit a report to the department by December 31, 2018, and [biannually] annually thereafter:

(1) The volume of sexual assault evidence [submitted] for which testing is completed.

(2) The volume of backlogged sexual assault evidence awaiting testing.

[(3) The rate of submission of sexual assault evidence by law enforcement agencies in compliance with the provisions of this act.]

(4) The **[speed of testing of sexual assault evidence, average wait]** *average turnaround* time to complete testing and reasons for any delays in submission or testing of sexual assault evidence.

(5) A review of current practices, including interagency collaboration with law enforcement agencies and rape crisis centers, in rape kit evidence collection *every two years*.

Section 4. This act shall take effect in 60 days.

APPROVED—The 28th day of June, A.D. 2019

TOM WOLF