

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

SESSION LAW 2018-70
HOUSE BILL 945

AN ACT TO CREATE THE STATEWIDE SEXUAL ASSAULT EVIDENCE COLLECTION KIT TRACKING SYSTEM AND TO REQUIRE TESTING OF PREVIOUSLY UNTESTED SEXUAL ASSAULT EVIDENCE COLLECTION KITS, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"§ 114-65. Statewide sexual assault evidence collection kit tracking system.

(a) Legislative Intent. – The General Assembly finds that the preservation and testing of sexual assault evidence collection kits (SAECK or “kit”) are important to public safety. Timely testing is vital to solve cases, punish offenders, bring justice to victims, and prevent future crimes. It is the intent of the General Assembly that every sexual assault evidence collection kit in North Carolina be tested. Sexual assault victims deserve no less.

(a1) Establishment of System. – There is established in the State Crime Laboratory the Statewide Sexual Assault Evidence Collection Kit Tracking System (the System). All sexual assault evidence collection kits purchased or distributed under G.S. 143B-1201 on or after October 1, 2018, shall be trackable and shall comply with the requirements of the System. The Director of the State Crime Laboratory (Director) shall implement protocols and administer the System. The Secretary of the Department of Public Safety (Secretary) shall adopt rules, guidelines, and sanctions, for agencies required to participate in the System under this section. The Director shall guidelines for agencies required to participate in the System under this section. The Director shall ensure that the System protects victim information against disclosure to nonparticipating agencies. Except as otherwise required for reporting under subsection (e) of this section, information maintained in the System is confidential and not a public record as defined in G.S. 132-1.

(b) Required Participation. – All medical providers, law enforcement agencies, forensic laboratories, or other persons or entities having custody or use of any sexual assault evidence collection kit in the State shall participate in the System and comply with the established protocols, rules, and guidelines. A participating entity shall be permitted to access the entity's tracking information through the System.

(c) Victim's Access to View Status of Kit. – It is the policy of the State to ensure that a victim of sexual assault or attempted sexual assault is able to track the location of the sexual assault evidence collection kit used to conduct the victim's forensic medical examination and that the victim is also able to determine whether forensic testing of the kit has been completed.

(d) Tracking of Previously Untested Kits. – The Director shall implement protocols and the Secretary shall adopt rules and guidelines to ensure that previously untested sexual assault evidence collection kits are trackable and are entered into the System. Any law enforcement agency, medical provider, or forensic laboratory that has in its custody a previously untested



sexual assault evidence collection kit used for a forensic medical examination shall comply with the established protocols, rules, and guidelines with respect to all untested kits.

For purposes of this subsection, a "previously untested sexual assault evidence collection kit" means any kit that has not undergone forensic testing and was identified and included in the 2017 statewide inventory of kits in law enforcement custody pursuant to Section 17.7 of S.L. 2017-57. To the extent practicable, and consistent with protecting victim confidentiality for unreported sexual assaults, a law enforcement agency having custody of a kit governed by this subsection shall take reasonable measures to provide appropriate tracking information to the affected victim.

(e) Annual Report to the General Assembly. – Beginning October 1, 2019, and annually thereafter, the Director shall report to the Joint Legislative Oversight Committee on Justice and Public Safety the following information for the previous fiscal year:

- (1) The number of tracking-enabled kits shipped to medical facilities or medical providers.
- (2) The number of tracking-enabled kits used by medical facilities or medical providers to conduct forensic medical examinations of sexual assault or attempted sexual assault victims.
- (3) Of the tracking-enabled kits used by medical facilities or medical providers to conduct forensic medical examinations, the number of kits for which a sexual assault has been reported to law enforcement, sorted by law enforcement agency.
- (4) Of the tracking-enabled kits generated for reported cases, the number of kits submitted to a laboratory for forensic testing.
- (5) Of the tracking-enabled kits submitted for forensic testing, the number of kits for which forensic testing has been completed.
- (6) The number of tracking-enabled kits for which a sexual assault has not been reported, including the total submitted to local law enforcement and the total submitted to Department of Public Safety Law Enforcement Support Services.
- (7) Information regarding efforts to track and test previously untested kits described in subsection (d) of this section."

SECTION 2. G.S. 143B-1201 reads as rewritten:

"§ 143B-1201. Restitution; actions.

(a) The Program shall be an eligible recipient for restitution or reparation under G.S. 15A-1021, 15A-1343, 148-33.1, 148-33.2, 148-57.1, and any other applicable statutes.

(b) When any victim who:

- (1) Has received assistance under this Part;
- (2) Brings an action for damages arising out of the rape, attempted rape, sexual offense, or attempted sexual offense for which she received that assistance; and
- (3) Recovers damages including the expenses for which she was awarded assistance, the court shall make as part of its judgment an order for reimbursement to the Program of the amount of any assistance awarded less reasonable expenses allocated by the court to that recovery.

(c) Funds appropriated to the Department of Public Safety for this program may be used to purchase and distribute ~~rape~~ sexual assault evidence collection kits approved by the State Bureau of Investigation-Director of the State Crime Laboratory.

(d) The Secretary, in consultation with the Director of the State Crime Laboratory, shall require that all sexual assault evidence collection kits purchased or distributed on or after October 1, 2018, are compatible with the Statewide Sexual Assault Evidence Collection Kit Tracking System established under G.S. 114-65."

SECTION 3. The Secretary of the Department of Public Safety shall convene a working group to make recommendations regarding the testing priority of untested sexual assault

kits identified in the 2017 Sexual Assault Evidence Collection Kit Law Enforcement Report made pursuant to Section 17.7 of S.L. 2017-57. The working group shall include representatives from law enforcement, victims' advocates such as the North Carolina Victim Assistance Network and the North Carolina Coalition Against Sexual Assault, RTI International, the North Carolina Department of Justice, prosecutors, and criminal defense attorneys. The working group shall develop findings and recommendations including a strategic plan to (i) establish the order of priority for testing kits; (ii) test all of the kits that can be tested; (iii) direct the preservation of all kits; (iv) suggest sanctions for the destruction or contamination of kits in violation of G.S. 15A-268; and (v) develop statewide protocols to test sexual assault evidence collection kits in the future. The working group statewide protocol for testing future sexual assault evidence collection kits. The working group shall also make findings and recommendations to the Secretary and to the Director with respect to developing the protocols, rules, and guidelines for the System under G.S. 114-65(a). The Secretary shall submit the findings and recommendations of the working group to the Joint Legislative Oversight Committee on Justice and Public Safety by December 1, 2018.

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of June, 2018.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 10:38 a.m. this 25th day of June, 2018