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SENATE BILL DRS45519-MMz-129*

Short Title: Rape Evidence Collection Kit Tracking Act. (Public)

Sponsors: Senators Randleman and Sanderson (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE THE STATEWIDE SEXUAL ASSAULT EVIDENCE COLLECTION
3 KIT TRACKING SYSTEM AND TO REQUIRE TESTING OF PREVIOUSLY
4 UNTESTED SEXUAL ASSAULT EVIDENCE COLLECTION KITS, AS
5 RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON
6 JUSTICE AND PUBLIC SAFETY.

7 The General Assembly of North Carolina enacts:

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

10 "**§ 114-65. Statewide sexual assault evidence collection kit tracking system.**

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

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

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

31 (d) Tracking of Previously Untested Kits. – The Director shall implement protocols and
32 the Secretary shall adopt rules and guidelines to ensure that previously untested sexual assault
33 evidence collection kits are trackable and are entered into the System. Any law enforcement
34 agency, medical provider, or forensic laboratory that has in its custody a previously untested
35 sexual assault evidence collection kit used for a forensic medical examination shall comply
36 with the established protocols, rules, and guidelines with respect to all untested kits.



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

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

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

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

31 **"§ 143B-1201. Restitution; actions.**

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

34 (b) When any victim who:

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

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

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

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

1 assault kits identified in the 2017 Sexual Assault Evidence Collection Kit Law Enforcement
2 Report made pursuant to Section 17.7 of S.L. 2017-57. The working group shall include
3 representatives from law enforcement, victims' advocates such as the North Carolina Victim
4 Assistance Network and the North Carolina Coalition Against Sexual Assault, RTI
5 International, the North Carolina Department of Justice, prosecutors, and criminal defense
6 attorneys. The working group shall develop findings and recommendations, including a
7 strategic plan, that identifies which untested sexual assault evidence collection kits can be
8 tested, the priority order for testing the kits, and a statewide protocol for testing future sexual
9 assault evidence collection kits. The Secretary shall submit the findings and recommendations
10 of the working group to the Joint Legislative Oversight Committee on Justice and Public Safety
11 by December 1, 2018.

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