

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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BILL DRAFT 2017-MM-129 [v.5]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
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Short Title: Rape Evidence Collection Kit Tracking Act.

(Public)

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 is amended by adding a new section to read:

9 **"§ 114-65. Statewide sexual assault evidence collection kit tracking system.**

10 (a) Establishment of System. – There is established in the State Crime Laboratory the
11 Statewide Sexual Assault Evidence Collection Kit Tracking System (the System), All sexual
12 assault evidence collection kits purchased or distributed under G.S. 143B-2101 on or after
13 October 1, 2018, shall be trackable and shall comply with the requirements of the System. The
14 Director of the State Crime Laboratory (Director) shall implement protocols and administer the
15 System and the Secretary of the Department of Public Safety (Secretary) shall adopt rules and
16 guidelines for agencies required to participate in the System under this section. The Director
17 shall ensure that the System protects victim information against disclosure to non-participating
18 agencies. Except as otherwise required for reporting under subsection (e) of this section,
19 information maintained in the System is confidential and not a public record as defined in
20 G.S. 132-1.

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

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

30 (d) Tracking of previously untested kits. – The Director shall implement protocols and
31 the Secretary shall adopt rules and guidelines to ensure that previously untested sexual assault
32 evidence collection kits are trackable and are entered into the System. Any law enforcement
33 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:

- (i) The number of tracking-enabled kits shipped to medical facilities or medical providers.
- (ii) 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.
- (iii) 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.
- (iv) Of the tracking-enabled kits generated for reported cases, the number of kits submitted to a laboratory for forensic testing.
- (v) Of the tracking-enabled kits submitted for forensic testing, the number of kits for which forensic testing has been completed.
- (vi) 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.
- (vii) 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."

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

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