

HOUSE BILL 1239

By Miller

AN ACT to amend Tennessee Code Annotated, Title 29, Chapter 13, Part 1; Title 38, Chapter 6, Part 1 and Title 39, Chapter 13, Part 5, relative to sexual assault cases.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 13, Part 5, is amended by adding the following new, appropriately designated section:

(a) As used in this section, unless the context otherwise requires:

(1) "Forensic medical examination" means an examination, by any healthcare provider who gathers evidence of a sexual assault in a manner suitable for use in a court of law, provided to a victim of a sexual offense;

(2) "Hold kit" means a sexual assault evidence kit that is coded with a number rather than a name pending the victim's decision to report the crime to law enforcement authorities;

(3) "Law enforcement agency":

(A) Means an established state or local public agency that:

(i) Is responsible for preventing and detecting crime and enforcing laws or local ordinances; and

(ii) Has employees who are authorized to make arrests for crimes while acting within the scope of their authority; and

(B) Includes an institution considered a "law enforcement agency" pursuant to § 49-7-118;

(4) "Sexual assault evidence kit" means a human biological specimen or specimens collected by a healthcare provider during a forensic medical examination from the victim of a sexual offense;

(5) "Sexual offense" means the commission of any act that constitutes the criminal offense of:

(A) Aggravated rape, under § 39-13-502;

(B) Rape, under § 39-13-503;

(C) Aggravated sexual battery, under § 39-13-504;

(D) Sexual battery, under § 39-13-505;

(E) Statutory rape, under § 39-13-506;

(F) Sexual exploitation of a minor, under § 39-17-1003;

(G) Aggravated sexual exploitation of a minor, under § 39-17-1004;

(H) Especially aggravated sexual exploitation of a minor, under § 39-17-1005;

(I) Incest, under § 39-15-302;

(J) Rape of a child, under § 39-13-522;

(K) Sexual battery by an authority figure, under § 39-13-527;

(L) Solicitation of a minor, under § 39-13-528;

(M) Criminal attempt, under § 39-12-101, solicitation, under § 39-12-102, or conspiracy under § 39-12-103, to commit any of the offenses enumerated within this subdivision (5); or

(N) Criminal responsibility, under § 39-11-402(2), for facilitating the commission of, under § 39-11-403, or being an accessory after the fact, under § 39-11-411, to any of the offenses enumerated in this subdivision (5); and

(6) "Victim" means the victim of a sexual offense.

(b) A victim of a sexual offense is entitled to a forensic medical examination without charge to the victim as provided in § 29-13-118. Upon the conclusion of the forensic examination, neither the resulting sexual assault evidence kit or hold kit shall be released to a law enforcement agency by a healthcare provider without the written consent of the victim. In the case of a minor or of a person with a legally appointed guardian, the person who is authorized by law or court to consent to the administration of the forensic medical exam is also authorized to consent to the release of the sexual assault evidence kit to a law enforcement agency.

(c)

(1) If the victim elects not to report the alleged offense to police at the time of the forensic medical examination, a hold kit shall be collected, and the healthcare provider shall assign a number to identify the kit rather than using the victim's name. The healthcare provider shall provide the victim with the identifying number placed on the victim's hold kit, information about where and how long the kit will be stored, and the procedures for making a police report.

(2) Hold kits shall be stored by the healthcare provider or law enforcement agency for a minimum of three (3) years and shall not be submitted to the Tennessee bureau of investigation or similar laboratory for testing until the victim has made a police report.

(d) A healthcare provider or law enforcement agency shall, within sixty (60) days of taking possession of the sexual assault evidence kits, submit the kits to the Tennessee bureau of investigation or similar qualified laboratory for either serology or deoxyribonucleic acid (DNA) testing. Only sexual assault evidence kits shall be submitted and in no event shall a hold kit be submitted without the consent of the victim.

SECTION 2. Tennessee Code Annotated, Title 39, Chapter 13, Part 5, is further amended by adding the following new, appropriately designated section:

(a) To provide for the implementation and efficient operation of Section 1 and to ensure a uniform policy for the handling, maintenance, and testing of sexual assault evidence kits and hold kits, the domestic violence state coordinating council shall create a model policy for law enforcement agencies responding to reports of sexual offenses.

(b) The model policy shall include guidelines for officers on:

(1) Investigating reports of sexual offenses;

(2) Providing victim assistance;

(3) Collaborating with victim advocates, healthcare providers, and victim service agencies; and

(4) Collecting, storing, and submitting sexual assault evidence kits to the Tennessee bureau of investigation or similar qualified laboratory for either serology or deoxyribonucleic acid (DNA) testing.

(c) The model policy shall be distributed to all law enforcement agencies that are likely to encounter reports of sexual offenses on or before January 1, 2016.

(d) All law enforcement agencies that are likely to encounter reports of sexual offenses shall establish written policies and procedures on responding to reports of sexual offenses. An agency may adopt the model policy developed by the domestic violence state coordinating council or an agency may adopt its own policy, provided the policy includes the same or higher standards as the model policy developed by the council. Each agency shall adopt its written policy on or before July 1, 2016.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring

it.