



# State of Tennessee

## PUBLIC CHAPTER NO. 253

### HOUSE BILL NO. 1239

By Representatives Miller, Camper, Cooper, Hazlewood, Hardaway, Turner, Akbari, Todd, Towns

Substituted for: Senate Bill No. 981

By Senators Norris, Kelsey, Gardenhire, Tate, Watson

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 provides medical care and gathers evidence of a sexually oriented crime in a manner suitable for use in a court of law, provided to a victim reporting a sexually oriented crime to a healthcare provider;

(2) "Hold kit" means a sexual assault evidence collection kit of an adult victim that is coded with a number rather than a name pending the victim's decision to report the crime to law enforcement authorities, and has not been submitted to the state crime lab or similar qualified laboratory;

(3) "Law enforcement agency" means:

(A) An established state or local agency that:

(i) Is responsible and has the duty to prevent and detect crime and enforce 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) A campus security force created by an institution of higher education pursuant to § 49-7-118;

(4) "Sexual assault evidence collection kit" means evidence collected from the victim of a sexually oriented crime with a sexual assault evidence collection kit provided by the state of Tennessee;

(5) "Sexually oriented crime" means those crimes listed in § 29-13-118(b);

(6) "Victim" means a victim of a sexually oriented crime as defined in § 29-13-118(b);

(b) A victim of a sexually oriented crime 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, the resulting sexual assault evidence collection kit or hold kit shall be released to a law enforcement agency by a healthcare provider for storage or transmission to the state crime lab or other similar qualified laboratory for either serology or deoxyribonucleic acid (DNA) testing.

(c)

(1) If an adult victim elects not to report the alleged offense to police at the time of the forensic medical examination, the sexual assault evidence collection kit becomes a hold kit, and the healthcare provider shall assign a number to identify the kit rather than use 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. The hold kit shall be released to the appropriate law enforcement agency for storage pursuant to subsection (d)(2).

(2) If an adult victim reports the alleged offense to the police, or the victim is a minor, the healthcare provider shall attach the victim's name to the sexual assault evidence collection kit, and it shall be released to the appropriate law enforcement agency.

(d)

(1) The law enforcement agency shall, within sixty (60) days of taking possession of the sexual assault evidence collection kit with the victim's name affixed to it, submit the kit to the Tennessee bureau of investigation or similar qualified laboratory for either serology or deoxyribonucleic acid (DNA) testing.

(2) Upon receipt of a hold kit with only an identification number attached to it, the law enforcement agency shall store the hold kit for a minimum of three (3) years or until the victim makes a police report, whichever event occurs first. Once the victim makes a police report, the law enforcement agency shall have sixty (60) days from the date of the police report to send the sexual assault evidence collection kit to the state crime lab or other similar qualified laboratory for either serology or deoxyribonucleic acid (DNA) testing. However, no hold kit shall be submitted to the state crime lab or similar laboratory for testing until the victim has made a police report.

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 sexually oriented crimes.

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

(1) Investigating reports of sexually oriented crimes;

(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 state crime lab 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 sexually oriented crimes on or before January 1, 2016.

(d) All law enforcement agencies that are likely to encounter reports of sexually oriented crimes shall establish written policies and procedures on responding to reports of sexually oriented crimes. 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.

**HB 1239**

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to all sexual assault evidence collected on or after this date.

HOUSE BILL NO. 1239

PASSED: April 13, 2015

  
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BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

  
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RON RAMSEY  
SPEAKER OF THE SENATE

APPROVED this 24<sup>th</sup> day of April 2015

  
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BILL HASLAM, GOVERNOR