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1

**SEXUAL ASSAULT KIT PROCESSING AMENDMENTS**

2

2017 GENERAL SESSION

3

STATE OF UTAH

4

**Chief Sponsor: Angela Romero**

5

Senate Sponsor: Todd Weiler

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8 Joel K. Briscoe

9 Rebecca Chavez-Houck

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**Bill Sponsor:**

**Floor Sponsor:**



Rep. Romero,  
Angela

Sen. Weiler,  
Todd

**• CoSponsor(s):**

- |                  |             |
|------------------|-------------|
| Arent, P.        | Briscoe, J. |
| Chavez-Houck, R. | Eliason, S. |
| Hall, C.         | Hemingway   |
| Hollins, S.      | King, Brian |
| Kwan, K.         | Moss, C.    |
| Noel, M.         | Owens, D.   |
| Perry, L.        | Potter, V.  |
| Poulson, M.      | Redd, E.    |
| Snow, V. L.      | Weight, E.  |
| Wheatley, M.     | Winder, M.  |

**Drafting Attorney:** Esther  
Chelsea-McCarty

**Fiscal Analyst:** Gary R. Syphus

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14 **LONG TITLE**

15 **General Description:**

16 This bill modifies provisions of the criminal code regarding the testing  
of sexual assault

17 kits.

18 **Highlighted Provisions:**

19 This bill:

20 ► requires that all sexual assault kits, except for those classified as  
restricted kits, be

21 tested to obtain DNA profiles;

22 ► provides that testing of a sexual assault kit be completed within a  
specified amount

23 of time;

24 ► provides the process by which sexual assault kits shall be stored  
and transmitted for

25 testing;

26 ► provides that a sexual assault kit shall be classified as a  
restricted kit if the victim

27 chooses not to interview with law enforcement about the sexual assault or  
sexual

---

28 abuse;

29 ► provides the guidelines and process for the retention and disposal  
of sexual assault

30 kits;

31 ► requires medical personnel who conduct sexual assault  
examinations to inform each

32 victim of specified rights, available treatments, and services;

33 ► authorizes the Department of Public Safety to develop and  
implement a statewide

34 sexual assault kit tracking system;

35 ► requires the Department of Public Safety and the Utah  
Prosecution Council to

36 develop and offer training to law enforcement officers on responding to  
cases of

37 sexual assault or sexual abuse;

38 ► requires the Peace Officers Standards and Training division to  
provide training to

39 persons seeking certification as a peace officer on sexual assault and  
sexual abuse;

40 ► provides rulemaking authority for the Department of Public Safety  
to implement the

41 tracking system, establish the timelines for processing sexual assault  
kits, and the




42 submission of information for each sexual assault kit; and

43 ► requires the Department of Public Safety to report to the Law  
Enforcement and



44 Criminal Justice Interim Committee each year regarding the processing of  
sexual

45 assault kits.

**Bill Text**

- [Introduced](#) 
- [Amended](#) 
  - [Amended Pages Only](#)
- [Enrolled](#)  (Currently Displayed)

**Related Documents**

- [Fiscal Note](#) 
- [House Transmittal Letter 1](#)
- [Senate Transmittal Letter 1](#)
- [House Committee Amendment 1\(passed\)](#)
- [Agency Perf Note](#) 

**Information**

- **Last Action:** 22 Mar 2017, Governor Signed
- **Last Location:** Lieutenant Governor's office for filing

**Similar Bills**

- [Law Enforcement and Criminal Justice](#)
- [Public Safety](#)

46 **Money Appropriated in this Bill:**

47 None

48 **Other Special Clauses:**

49 None

50 **Utah Code Sections Affected:**

51 ENACTS:

52 76-5-601, Utah Code Annotated 1953

53 76-5-602, Utah Code Annotated 1953

54 76-5-603, Utah Code Annotated 1953

55 76-5-604, Utah Code Annotated 1953

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56 76-5-605, Utah Code Annotated 1953

57 76-5-606, Utah Code Annotated 1953

58 76-5-607, Utah Code Annotated 1953

59 76-5-608, Utah Code Annotated 1953

60 76-5-609, Utah Code Annotated 1953

61 76-5-610, Utah Code Annotated 1953

62

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63 *Be it enacted by the Legislature of the state of Utah:*

64 Section 1. Section **76-5-601** is enacted to read:

65

**Part 6. Sexual Assault Kit Processing Act**

66 76-5-601. Title.

67 This part is known as the "Sexual Assault Kit Processing Act".

68 Section 2. Section **76-5-602** is enacted to read:

69 76-5-602. Definitions.

70 For purposes of this part:

71 (1) "Collecting facility" means a hospital, health care facility, or other facility that

72 performs sexual assault examinations.

73 (2) "Department" means the Department of Public Safety.

74 (3) "Evidence-based, trauma-informed, victim-centered" means policies, procedures,

75 programs, and practices that:

76 (a) have demonstrated an ability to minimize retraumatization associated with the

77 criminal justice process by recognizing the presence of trauma symptoms and acknowledging

78 the role that trauma has played in the life of a victim of sexual assault or sexual abuse; and

79 (b) encourage law enforcement officers to interact with victims of sexual assault or

80 sexual abuse with compassion and sensitivity in a nonjudgmental manner.

81 (4) "Restricted kit" means a sexual assault kit:

82 (a) that is collected by a collecting facility; and

83 (b) for which a victim who is 18 years of age or older chooses not to provide a personal

---

84 statement about the sexual assault to law enforcement, as provided in Subsection

85 76-5-606(1)(d).

86 (5) "Sexual assault kit" means a package of items that is used by

medical personnel to

87 gather and preserve biological and physical evidence following an  
allegation of sexual assault.

88 Section 3. Section **76-5-603** is enacted to read:

89 **76-5-603. All sexual assault kits to be submitted.**

90 (1) Except as provided in Subsection 76-5-604(4), beginning July 1,  
2018, all sexual

91 assault kits received by law enforcement agencies shall be submitted to  
the Utah Bureau of

92 Forensic Services in accordance with the provisions of this part.

93 (2) The Utah Bureau of Forensic Services shall test all sexual assault  
kits that the

94 bureau receives with the goal of developing autosomal DNA profiles that  
are eligible for entry

95 into the Combined DNA Index System.

96 (3) (a) The testing of all sexual assault kits shall be completed within  
a specified

97 amount of time, as determined by administrative rule consistent with the  
provisions of this part.

98 (b) The ability of the Utah Bureau of Forensic Services to meet the  
established time

99 frames may be dependent upon the following factors:

100 (i) the number of sexual assault kits that the Utah Bureau of Forensic  
Services

101 receives;

102 (ii) the technology available and improved testing methods;

103 (iii) fully trained and dedicated staff to meet the full workload needs of  
the Utah

104 Bureau of Forensic Services; and

105 (iv) the number of lab requests received relating to other crime  
categories.

106 Section 4. Section **76-5-604** is enacted to read:

107 **76-5-604. Sexual assault kit processing -- Restricted kits.**

108 (1) The collecting facility shall enter the required victim information  
into the statewide

109 sexual assault kit tracking system, defined in Section 76-5-607, within  
24 hours of performing

110 a sexual assault examination.

111 (2) Each sexual assault kit collected by medical personnel shall be  
taken into custody

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112 by a law enforcement agency as soon as possible and within one  
business day of notice from

113 the collecting facility.

114 (3) The law enforcement agency that receives a sexual assault kit  
shall enter the

115 required information into the statewide sexual assault kit tracking  
system, provided in Section

116 76-5-607, within five business days of receiving a sexual assault kit from  
a collecting facility.

117 (4) Each sexual assault kit received by a law enforcement agency  
from a collecting

118 facility that relates to an incident that occurred outside of the jurisdiction  
of the law

119 enforcement agency shall be transferred to the law enforcement agency  
with jurisdiction over

120 the incident within 10 days of learning that another law enforcement  
agency has jurisdiction.

121 (5) (a) Except for restricted kits, each sexual assault kit shall be  
submitted to the Utah

122 Bureau of Forensic Services as soon as possible, but no later than 30  
days after receipt by a law

123 enforcement agency.

124 (b) Restricted kits may not be submitted to the Utah Bureau of  
Forensic Services.

125 (c) Restricted kits shall be maintained by the law enforcement  
agency with jurisdiction,

126 in accordance with the provisions of this part.

127 (d) If a victim chooses to provide a personal statement about the  
sexual assault or

128 sexual abuse to law enforcement at any time after declining to provide a  
statement:

129 (i) the restricted kit shall no longer be classified as restricted; and

130 (ii) the sexual assault kit shall be transmitted to the Utah Bureau of  
Forensic Services

131 as soon as possible, but no later than 30 days after the victim chooses  
to provide a statement to

132 law enforcement.

133 (6) If available, a suspect standard or a consensual partner  
elimination standard shall be

134 submitted to the Utah Bureau of Forensic Services:

135 (a) with the sexual assault kit, if available, at the time the sexual  
assault kit is

136 submitted; or

137 (b) as soon as possible, but no later than 30 days from the date the  
kit was obtained by

138 the law enforcement agency, if not obtained until after the sexual assault  
kit is submitted.

139 (7) Failure to meet a deadline established in this part or as part of  
any rules established

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140 by the department is not a basis for dismissal of a criminal action or a  
bar to the admissibility

141 of the evidence in a criminal action.

142 Section 5. Section **76-5-605** is enacted to read:

143 **76-5-605. Sexual assault kit retention and disposal.**

144 Any item of evidence gathered by collecting facility personnel, law  
enforcement,

145 prosecutorial, or defense authorities that may be subject to  
deoxyribonucleic acid evidence

146 testing and analysis in order to confirm the guilt or innocence of a  
criminal defendant may not

147 be disposed of before trial of a criminal defendant unless:

148 (1) 50 years have passed from the date of evidence collection for  
sexual assault kits

149 relating to an uncharged or unresolved crime; or

150 (2) 20 years have passed from the date of evidence collection for  
restricted kits, and:

151 (a) the prosecution has determined that the defendant will not be  
tried for the criminal

152 offense;

153 (b) the prosecution has filed a motion with the court to destroy the

evidence; and

154 (c) an attempt has been made to notify the victim as required in

Subsections

155 77-37-3(3)(b)(i) and (ii).

156 Section 6. Section **76-5-606** is enacted to read:

157 **76-5-606. Victim notification of rights -- Notification of law enforcement.**

158 (1) Collecting facility personnel who conduct sexual assault examinations shall inform

159 each victim of a sexual assault of:

160 (a) available services for treatment of sexually transmitted infections, pregnancy, and

161 other medical and psychiatric conditions;

162 (b) available crisis intervention or other mental health services provided;

163 (c) the option to receive prophylactic medication to prevent sexually transmitted

164 infections and pregnancy;

165 (d) the right to determine;

166 (i) whether to provide a personal statement about the sexual assault to law

167 enforcement; and

---

168 (ii) if law enforcement should have access to any paperwork from the forensic

169 examination; and

170 (e) the victim's rights as provided in Section 77-37-3.

171 (2) The collecting facility shall notify law enforcement as soon as practicable if the

172 victim of a sexual assault decides to interview and discuss the assault with law enforcement.

173 (3) If a victim of a sexual assault declines to provide a personal statement about the

174 sexual assault to law enforcement, the collecting facility shall provide a written notice to the

175 victim that contains the following information:

176 (a) where the sexual assault kit will be stored;

177 (b) notice that the victim may choose to contact law enforcement any time after

178 declining to provide a personal statement;

179 (c) the name, phone number, and email address of the law enforcement agency having

180 jurisdiction; and

181 (d) the name and phone number of a local rape crisis center.

182 Section 7. Section **76-5-607** is enacted to read:

183 **76-5-607. Statewide sexual assault kit tracking system.**

184 (1) The department shall develop and implement a statewide tracking system by July 1,

185 2018, that contains the following information for all sexual assault kits collected by law

186 enforcement:

187 (a) the submission status of sexual assault kits by law enforcement to the Utah Bureau

188 of Forensic Services;

189 (b) notification by the Utah Bureau of Forensic Services to law enforcement of DNA

190 analysis findings; and  
191 (c) the storage location of sexual assault kits.  
192 (2) The tracking system shall include a secure electronic access that  
allows the  
193 submitting agency, collecting facility, department, and a victim, or his or  
her designee, to  
194 access or receive information, provided that the disclosure does not  
impede or compromise an  
195 active investigation, about the:

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196 (a) lab submission status;  
197 (b) DNA analysis findings provided to law enforcement; and  
198 (c) storage location of a sexual assault kit that was gathered from  
that victim.

199 Section 8. Section **76-5-608** is enacted to read:

200 **76-5-608. Law enforcement -- Training -- Sexual assault and**  
**sexual abuse.**

201 (1) The department and the Utah Prosecution Council shall develop  
training in

202 trauma-informed responses and investigations of sexual assault and  
sexual abuse, which

203 include, but are not limited to, the following:

204 (a) recognizing the symptoms of trauma;

205 (b) understanding the impact of trauma on a victim;

206 (c) responding to the needs and concerns of a victim of sexual  
assault or sexual abuse;

207 (d) delivering services to victims of sexual assault or sexual abuse in  
a compassionate,

208 sensitive, and nonjudgmental manner;

209 (e) understanding cultural perceptions and common myths of sexual  
assault and sexual

210 abuse; and

211 (f) techniques of writing reports in accordance with Subsection (5).

212 (2) (a) The department and the Utah Prosecution Council shall offer  
the training in

213 Subsection (1) to all certified law enforcement officers in the state of  
Utah by July 1, 2018.

214 (b) The training for all law enforcement officers may be offered  
through an online

215 course, developed by the department and the Utah Prosecution Council.

216 (3) The training listed in Subsection (1) shall be offered by the Peace  
Officer Standards

217 and Training division to all persons seeking certification as a peace  
officer, beginning July 1,

218 2018.

219 (4) (a) The department and the Utah Prosecution Council shall  
develop and offer an

220 advanced training course by July 1, 2018, for officers who investigate  
cases of sexual assault or

221 sexual abuse.

222 (b) The advanced training course shall include:

223 (i) all criteria listed in Subsection (1); and

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224 (ii) interviewing techniques in accordance with the curriculum  
standards in Subsection

225 (5).

226 (5) The department shall consult with the Utah Prosecution Council  
227 to develop the  
228 specific training requirements of this section, including evidence-based  
229 curriculum standards  
230 for report writing and response to sexual assault and sexual abuse,  
231 including trauma-informed  
232 and victim-centered interview techniques, which have been demonstrated  
233 to minimize  
234 retraumatizing victims.

231 Section 9. Section **76-5-609** is enacted to read:

232 **76-5-609. Rulemaking authority.**

233 After consultation with the Utah Bureau of Forensic Services and in  
234 accordance with

235 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
236 department shall make rules,

237 consistent with this part, regarding:

238 (1) the procedures for the submission and testing of all sexual  
239 assault kits collected by

240 law enforcement and prosecutorial agencies in the state;

241 (2) the information and evidence that is required to be submitted as  
242 part of each sexual

243 assault kit submission; and

244 (3) goals for the completion of analysis and classification of all  
245 sexual assault kit

246 submissions.

247 Section 10. Section **76-5-610** is enacted to read:

248 **76-5-610. Reporting requirement.**

249 The Department of Public Safety and the Utah Bureau of Forensic  
250 Services shall report

251 by July 31 of each year to the Law Enforcement and Criminal Justice  
252 Interim Committee and

253 the Executive Offices and Criminal Justice Appropriations Subcommittee  
254 regarding:

255 (1) the timelines set for testing all sexual assault kits submitted to  
256 the Utah Bureau of

257 Forensic Services as provided in Subsection 76-5-603(2);

258 (2) the goals established in Section 76-5-609;

259 (3) the status of meeting those goals;

260 (4) the number of sexual assault kits that are sent to the Utah  
261 Bureau of Forensic

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262 Services for testing;

263 (5) the number of restricted kits held by law enforcement;

264 (6) the number of sexual assault kits that are not processed in  
265 accordance with the

266 timelines established in this part; and

267 (7) future appropriations requests that will ensure that all DNA cases  
268 can be processed

269 according to the timelines established by this part.



# Who represents me?



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