



Senate Fiscal Agency
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Senate Bills 1193 through 1195 (as introduced 10-13-20)
Sponsor: Senator Kimberly A. LaSata (S.B. 1193)
Senator Lana Theis (S.B. 1194)
Senator Paul Wojno (S.B. 1195)
Committee: Judiciary and Public Safety

Date Completed: 10-21-20

CONTENT

Senate Bills 1193 through 1195, collectively, would amend the Sexual Assault Kit Evidence Submission Act to do the following:

- **Require a sexual assault evidence kit that was not released to a law enforcement to be stored for a minimum of two, instead of one, years before it was destroyed.**
- **Revise, from 14 to seven days, the time periods in which a law enforcement agency must take possession of sexual assault kit evidence from a health care facility, must notify another law enforcement that that agency has jurisdiction over the sexual assault kit, and must submit the evidence to the Michigan State Police (MSP) or another accredited laboratory for analysis.**
- **Require the MSP or an accredited laboratory to analyze all sexual assault evidence within 30, instead of 90, days after it was received.**
- **Require a law enforcement agency to provide notice to the victim in a sexual assault offense case at least twice before the evidence was destroyed or otherwise disposed of.**

Senate Bill 1193

Under the Act, a health care facility that has obtained written consent to release sexual assault kit evidence must notify the investigating law enforcement agency, if known, or the law enforcement agency having jurisdiction in that portion of the local unit of government in which the medical facility is located of that fact within 24 hours after obtaining that consent.

A health care facility that has not obtained written consent to release any sexual assault kit evidence must inform the individual from whom sexual assault kit evidence was obtained of its sexual assault kit evidence storage policy. The information provided must include a statement of the period for which that evidence will be stored before it is destroyed and how the individual can have the evidence released to the investigating law enforcement agency at a later date.

Any sexual assault kit evidence that is not released to a law enforcement agency must be stored for a minimum of one year before it is destroyed. Under the bill, any sexual assault kit evidence that was not released to a law enforcement agency would have to be stored for a minimum of two, instead of one, years before it was destroyed.

Senate Bill 1194

The Act requires a law enforcement agency that receives notice that a sexual assault kit evidence has been released to that law enforcement agency to take possession of the evidence from the health care facility within 14 days after receiving that notice.

If a law enforcement agency determines that the alleged sexual assault occurred within the jurisdiction of another law enforcement agency and that it does not otherwise have jurisdiction over that assault, that law enforcement agency must notify the other law enforcement agency of that fact within 14 days after receiving the kit from the health care facility that collected the sexual assault kit evidence.

A law enforcement agency that receives notice that it has the proper jurisdiction over an alleged sexual assault must take possession of the sexual assault kit evidence from the other law enforcement agency within 14 days after receiving that notice.

The investigating law enforcement agency that takes possession of any sexual assault kit evidence must assign a criminal complaint number to that evidence in the manner required by that agency and must submit that evidence to the MSP or another accredited laboratory for analysis within 14 days after that law enforcement agency takes possession of that evidence. Sexual assault kit evidence that was received by a law enforcement agency within 30 days before March 31, 2015, also must be submitted to the MSP or other accredited laboratory as provided in the Act.

The bill would modify these provisions to refer to seven, instead of 14, days.

Under the Act, all sexual assault kit evidence submitted to the MSP or an accredited laboratory on or after March 31, 2015, must be analyzed within 90 days after all of the necessary evidence is received by the MSP or other accredited laboratory, provided that sufficient staffing and resources are available to do so. The bill would refer to 30, instead of 90, days.

Senate Bill 1195

Under the Act, if a law enforcement agency intends to destroy or otherwise dispose of any sexual assault kit evidence in a sexual assault offense case before the expiration for the limitation period applicable under Section 24 of Chapter 7 (Grand Juries, Indictments, Informations and Proceedings Before Trial) of the Code of Criminal Procedure and its destruction does not otherwise conflict with the requirements of Section 16 of Chapter 10 (New Trials, Writs of Error, and Bills of Exceptions) of the Code of Criminal Procedure, the law enforcement agency with the primary responsibility for investigating the case must notify the victim of that intention in writing at least 60 days before the evidence is destroyed or otherwise disposed of.

Instead, under the bill, the law enforcement agency would have to provide to the victim an initial notice within 30 days and would have to provide a second written notice between 30 and 60 days before the evidence was destroyed or otherwise disposed of.

MCL 752.933 (S.B. 1193)
752.934 (S.B. 1194)
752.935 (S.B. 1195)

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bills would have a minimal fiscal impact on State and local law enforcement agencies.

Fiscal Analyst: Bruce Baker
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.