
Wisconsin Legislative Council

AMENDMENT MEMO



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2019 Assembly Bill 844

**Assembly
Amendments 1 to 5**

2019 ASSEMBLY BILL 844

2019 Assembly Bill 844 creates a number of new requirements related to the handling of sexual assault kits and the rights of sexual assault victims, including the following. The bill:

- Creates a statutory procedure for transmission, processing, and storing of sexual assault kits, including requirements for health care providers and law enforcement to submit untested kits to the state crime labs.
- Requires the Department of Justice (DOJ) to collect certain data regarding sexual assault kits, perform an audit of untested kits within 180 days after the bill's effective date, and submit annual reports to the Legislature regarding the status of sexual assault kits in Wisconsin.
- Creates a sexual assault victim bill of rights and specifies a number of other rights, to which sexual assault victims are entitled.
- Exempts health care providers who conduct sexual assault forensic exams from civil or criminal liability, except for civil liability for negligence. This same liability exemption is also extended to the provider's employer and the health care facility where the exam is conducted.
- Requires a health care provider, who conducts an exam to gather evidence regarding a sex offense, to inform the victim of certain legal rights and to provide the victim with an opportunity to bathe immediately following the exam, if facilities are available. Hospitals that provide emergency services to victims of sexual assault, human trafficking, or child sexual abuse must likewise inform the victim of certain legal rights.
- Prohibits the sale of at-home sexual assault evidence collection kits that are intended for use by a person, who is not a health care professional or a law enforcement member, to collect evidence regarding a sex offense.
- Allows a K-12 student who is a victim of sexual assault to apply to attend a choice school, if charges have been filed for the sexual assault and the individual against whom the charges are filed is a pupil or an employee of a school district.
- Requires reporting to U.S. Immigration and Customs Enforcement when a person who is not legally authorized to be in the United States is arrested for or convicted of a sexual assault.
- Creates a data bank, to be known as the Wisconsin Sexual Assault Kit Tracking System, with information about the location and status of sexual assault kits.

ASSEMBLY AMENDMENT 1

Assembly Amendment 1 makes the following changes to the Wisconsin Sexual Assault Kit Tracking System. First, bill refers to the system as a “data bank,” whereas the amendment refers to it as a “database.” Second, the bill states that the tracking system is created for victims of “alleged or suspected” sexual assault. The amendment deletes the words “alleged or suspected,” stating instead that the tracking system is created for victims of sexual assault. The amendment likewise deletes a provision from the bill, which would allow access to the kits throughout the criminal justice process.

Third, the bill allows a victim to anonymously track or receive updates regarding the status of his or her kit, and to receive information and analyses of evidence obtained from the kit. Under the amendment, a victim can track his or her kit but is not entitled to receive updates regarding its status. Also under the amendment, a victim can receive information regarding the location and status of his or her kit but is not entitled to receive analyses of evidence.

Finally, the amendment adds a requirement that law enforcement, health care providers, and the state crime labs must enter updates into the tracking system.

ASSEMBLY AMENDMENT 2

Assembly Amendment 2 modifies the timeline within which law enforcement must act after receiving notification from a health care professional that a victim has chosen to report a sexual assault, or that an assault has occurred for which reporting is required.

Under the bill, law enforcement must take possession of the kit within 48 hours after receiving the notification, and must send the kit to the state crime labs for processing no less than 48 hours and no more than seven days after taking possession. If, while the kit is in law enforcement’s possession, the victim chooses not to proceed with the analysis, law enforcement must send the kit to the state crime lab for storage within seven days after taking possession of the kit.

Under the amendment, law enforcement must take possession of the kit within 72 hours after receiving notification from a health care professional, and must send the kit to the state crime labs for processing within 14 days after taking possession. If, while the kit is in law enforcement's possession, the victim chooses not to proceed with the analysis, law enforcement must send the kit to the state crime lab for storage within that same 14-day period.

ASSEMBLY AMENDMENT 3

The bill requires DOJ to notify victims regarding certain actions related to their kits. Assembly Amendment 3 retains the same notification requirements but shifts the responsibility for making the notification, as follows.

Under the amendment, DOJ must ensure that law enforcement agencies notify each victim, from whom a sexual assault kit was collected and analyzed, of the results of the analysis and the occurrence of any future sexual assault kit analysis that identifies a matching foreign DNA profile.

Victims must also be notified 60 days before their kits will be destroyed. If the kit was processed by the state crime labs and is being stored by law enforcement, DOJ must ensure that law enforcement makes the notification. If the kit is being stored by the state crime labs because the victim chose not to report, the state crime labs must make this notification.

ASSEMBLY AMENDMENT 4

Assembly Amendment 4 deletes the bill's requirement that health care providers who conduct exams to gather evidence regarding a sex offense must inform victims of certain legal rights, including the sexual assault victim bill of rights. The amendment also deletes the similar provision in the bill that requires hospitals to inform victims of their legal rights.

ASSEMBLY AMENDMENT 5

Assembly Amendment 5 modifies the requirements for storing a sexual assault kit after it has been processed. Under the bill, the state crime labs must store kits for 50 years after they have been processed. The amendment deletes this language and instead states that if law enforcement takes possession of a kit after it has been processed, law enforcement must store the kit for 50 years.

BILL HISTORY

2019 Assembly Bill 844 was introduced by Representative Steffen on February 2, 2020. On February 5, 2020, Representatives Thiesfeldt and Steffen offered Assembly Amendments 1 and 2, and Representative Sanfelippo offered Assembly Amendments 3 to 5. On that same day, the Assembly Committee on Health recommended adoption of the amendments, each on a vote of Ayes, 9; Noes, 4. The committee then recommended passage of the bill, as amended, on a vote of Ayes, 8; Noes, 5.

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