

No. 2006-165

AN ACT

SB 439

Providing for a sexual assault evidence collection program and for powers and duties of the Department of Health and the Pennsylvania State Police; and establishing civil immunity.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Sexual Assault Testing and Evidence Collection Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Child advocacy center.” A local public agency in this Commonwealth, or a not-for-profit entity incorporated in this Commonwealth that is tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) or any successor provision, which operates within this Commonwealth for the primary purpose of providing a child-focused, facility-based program dedicated to coordinating a formalized multidisciplinary response to suspected child abuse. At a minimum, either onsite or through a partnership with another entity or entities, a child advocacy center shall assist county agencies, investigative teams and law enforcement by providing services, including forensic interviews, medical evaluations, therapeutic interventions, victim support and advocacy, team case reviews and a system for case tracking.

“Date rape drug.” Any sedating substance that can be used to incapacitate a victim, making that person more susceptible to sexual assault, including, but not limited to, Rohypnol, ketamine, GHB, MDMA (ecstasy) and their derivatives.

“PCAR.” The Pennsylvania Coalition Against Rape.

“Rape kit.” A sexual assault evidence collection kit.

“SART.” The Sexual Assault Response Team.

“Sexual assault.” Any of the offenses specified in 18 Pa.C.S. Ch. 31 Subch. B (relating to definition of offenses).

“Victim of sexual assault” or “victim.” A person who represents to a health care professional, hospital or other health care facility that the person has experienced a sexual assault.

Section 3. Sexual assault evidence collection program.

(a) Establishment.—There is hereby established a Statewide sexual assault evidence collection program to promote the health and safety of

victims of sexual assault and to facilitate the prosecution of persons accused of sexual assault. This program shall be administered by the Department of Health. Under this program the Department of Health shall:

(1) Consult with PCAR and the Pennsylvania State Police to develop minimum standard requirements for all rape kits used in hospitals and health care facilities in this Commonwealth.

(2) Test and approve commercially available rape kits for use in this Commonwealth.

(3) Review the minimum standard requirements for rape kits and prior-approved rape kits every three years to assure that rape kits meet state-of-the-art minimum standards.

(4) Consult with PCAR, the Pennsylvania State Police, the International Association of Forensic Nurses, the Hospital and Healthsystem Association of Pennsylvania and any local SART to establish a program to train hospital, child advocacy center and health care facility personnel in the correct use and application of rape kits in order to maximize the health and safety of the victim and the potential to collect useful admissible evidence to prosecute persons accused of sexual assault.

(b) Duties of Pennsylvania State Police.—

(1) When requested by local law enforcement, district attorneys or the Office of Attorney General, the Pennsylvania State Police shall ensure that the analysis and laboratory testing of collected evidence, including samples that may contain traces of a date rape drug, are accomplished. The cost of the testing or analysis shall not be the responsibility of the Pennsylvania State Police.

(2) The Pennsylvania State Police shall include, as part of existing training programs for local law enforcement, training to ensure that the chain of custody of all rape kits is established to minimize any risk of tampering with evidence included in the rape kit and to ensure that all useful and proper evidence in addition to the rape kit is collected at the hospital or health care facility.

Section 4. Civil immunity.

A health care professional, including a physician, nurse or health care provider, and a health care institution, including a hospital, clinic, child advocacy center or health care facility, that provides evidence or information to a law enforcement officer pursuant to this act at the request or consent of the victim is immune from any civil or professional liability that might arise from the action, with the exception of willful or wanton misconduct.

Section 20. Effective date.

This act shall take effect in 60 days.

APPROVED—The 29th day of November, A.D. 2006.

EDWARD G. RENDELL