

SEXUAL ASSAULT KIT PROCESSING ACT AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Angela Romero

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill makes changes to the Sexual Assault Kit Processing Act regarding restricted kits.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of restricted kit;
- ▶ clarifies that only medical personnel who collect kit information may classify a kit as restricted; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5-602, as enacted by Laws of Utah 2017, Chapter 249

76-5-603, as enacted by Laws of Utah 2017, Chapter 249

76-5-604, as enacted by Laws of Utah 2017, Chapter 249

76-5-608, as enacted by Laws of Utah 2017, Chapter 249



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

29 Section 1. Section **76-5-602** is amended to read:

30 **76-5-602. Definitions.**

31 For purposes of this part:

32 (1) "Collecting facility" means a hospital, health care facility, or other facility that
33 performs sexual assault examinations.

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

35 ~~[(4)]~~ (3) "Restricted kit" means a sexual assault kit:

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

37 (b) for which a victim who is 18 years of age or older ~~[chooses not to provide a~~
38 ~~personal statement about the sexual assault to law enforcement, as provided in Subsection~~
39 ~~76-5-606(1)(d)]~~ at the time of the sexual assault kit evidence collection declines:

40 (i) to have his or her sexual assault kit processed; and

41 (ii) to have the sexual assault examination form shared with any entity outside of the
42 collection facility.

43 ~~[(5)]~~ (4) "Sexual assault kit" means a package of items that is used by medical
44 personnel to gather and preserve biological and physical evidence following an allegation of
45 sexual assault.

46 ~~[(3)]~~ (5) ~~"[Evidence-based, trauma-informed]~~ Trauma-informed, victim-centered"
47 means policies, procedures, programs, and practices that:

48 (a) have demonstrated an ability to minimize retraumatization associated with the
49 criminal justice process by recognizing the presence of trauma symptoms and acknowledging
50 the role that trauma has played in the life of a victim of sexual assault or sexual abuse; and

51 (b) encourage law enforcement officers to interact with victims of sexual assault or
52 sexual abuse with compassion and sensitivity in a nonjudgmental manner.

53 Section 2. Section **76-5-603** is amended to read:

54 **76-5-603. All sexual assault kits to be submitted.**

55 (1) Except as provided in Subsection ~~76-5-604~~~~[(4)]~~(5), beginning July 1, 2018, all
56 sexual assault kits received by law enforcement agencies shall be submitted to the Utah Bureau
57 of Forensic Services in accordance with the provisions of this part.

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

59 bureau receives with the goal of developing autosomal DNA profiles that are eligible for entry
60 into the Combined DNA Index System.

61 (3) (a) The testing of all sexual assault kits shall be completed within a specified
62 amount of time, as determined by administrative rule consistent with the provisions of this part.

63 (b) The ability of the Utah Bureau of Forensic Services to meet the established time
64 frames may be dependent upon the following factors:

65 (i) the number of sexual assault kits that the Utah Bureau of Forensic Services
66 receives;

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

68 (iii) fully trained and dedicated staff to meet the full workload needs of the Utah
69 Bureau of Forensic Services; and

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

71 Section 3. Section **76-5-604** is amended to read:

72 **76-5-604. Sexual assault kit processing -- Restricted kits.**

73 (1) ~~[The]~~ Unless the health care provider designates a sexual assault kit as a restricted
74 kit, the collecting facility shall enter the required victim information into the statewide sexual
75 assault kit tracking system, defined in Section [76-5-607](#), within 24 hours of performing a
76 sexual assault examination.

77 (2) A restricted kit may only be designated as a restricted kit:

78 (a) by a health care provider; and

79 (b) at the time of collection.

80 ~~[(2)]~~ (3) Each sexual assault kit collected by medical personnel shall be taken into
81 custody by a law enforcement agency as soon as possible and within one business day of notice
82 from the collecting facility.

83 ~~[(3)]~~ (4) The law enforcement agency that receives a sexual assault kit shall enter the
84 required information into the statewide sexual assault kit tracking system, provided in Section
85 [76-5-607](#), within five business days of receiving a sexual assault kit from a collecting facility.

86 ~~[(4)]~~ (5) Each sexual assault kit received by a law enforcement agency from a
87 collecting facility that relates to an incident that occurred outside of the jurisdiction of the law
88 enforcement agency shall be transferred to the law enforcement agency with jurisdiction over
89 the incident within 10 days of learning that another law enforcement agency has jurisdiction.

90 ~~[(5)]~~ (6) (a) Except for restricted kits, each sexual assault kit shall be submitted to the
91 Utah Bureau of Forensic Services as soon as possible, but no later than 30 days after receipt by
92 a law enforcement agency.

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

94 (c) Restricted kits shall be maintained by the law enforcement agency with jurisdiction,
95 in accordance with the provisions of this part.

96 (d) ~~[H]~~ A restricted kit may be changed to an unrestricted kit if the victim informs the
97 designated law enforcement agency that he or she wants to have the sexual assault kit
98 processed and agrees to release of the sexual assault examination form with the sexual assault
99 kit. Once a victim [chooses to provide a personal statement about the sexual assault or sexual
100 abuse to law enforcement at any time after declining to provide a statement] indicates that he or
101 she wants the sexual assault kit processed:

102 (i) the ~~[restricted]~~ kit ~~[shall]~~ may no longer be classified as restricted; and

103 (ii) the ~~[sexual assault]~~ kit shall be transmitted to the Utah Bureau of Forensic Services
104 as soon as possible, but no later than 30 days after the victim chooses to ~~[provide a statement to~~
105 ~~law enforcement]~~ unrestrict his or her kit with law enforcement.

106 ~~[(6)]~~ (7) If available, a suspect standard or a consensual partner elimination standard
107 shall be submitted to the Utah Bureau of Forensic Services:

108 (a) with the sexual assault kit, if available, at the time the sexual assault kit is
109 submitted; or

110 (b) as soon as possible, but no later than 30 days from the date the kit was obtained by
111 the law enforcement agency, if not obtained until after the sexual assault kit is submitted.

112 ~~[(7)]~~ (8) Failure to meet a deadline established in this part or as part of any rules
113 established by the department is not a basis for dismissal of a criminal action or a bar to the
114 admissibility of the evidence in a criminal action.

115 Section 4. Section **76-5-608** is amended to read:

116 **76-5-608. Law enforcement -- Training -- Sexual assault and sexual abuse.**

117 (1) The department and the Utah Prosecution Council shall develop training in
118 trauma-informed responses and investigations of sexual assault and sexual abuse, which
119 include, but are not limited to, the following:

120 (a) recognizing the symptoms of trauma;

- 121 (b) understanding the impact of trauma on a victim;
- 122 (c) responding to the needs and concerns of a victim of sexual assault or sexual abuse;
- 123 (d) delivering services to victims of sexual assault or sexual abuse in a compassionate,
124 sensitive, and nonjudgmental manner;
- 125 (e) understanding cultural perceptions and common myths of sexual assault and sexual
126 abuse; and
- 127 (f) techniques of writing reports in accordance with Subsection (5).
- 128 (2) (a) The department and the Utah Prosecution Council shall offer the training in
129 Subsection (1) to all certified law enforcement officers in the state of Utah by July 1, 2018.
- 130 (b) The training for all law enforcement officers may be offered through an online
131 course, developed by the department and the Utah Prosecution Council.
- 132 (3) The training listed in Subsection (1) shall be offered by the Peace Officer Standards
133 and Training division to all persons seeking certification as a peace officer, beginning July 1,
134 2018.
- 135 (4) (a) The department and the Utah Prosecution Council shall develop and offer an
136 advanced training course by July 1, 2018, for officers who investigate cases of sexual assault or
137 sexual abuse.
- 138 (b) The advanced training course shall include:
- 139 (i) all criteria listed in Subsection (1); and
- 140 (ii) interviewing techniques in accordance with the curriculum standards in Subsection
141 (5).
- 142 (5) The department shall consult with the Utah Prosecution Council to develop the
143 specific training requirements of this section, including [~~evidence-based~~] curriculum standards
144 for report writing and response to sexual assault and sexual abuse, including trauma-informed
145 and victim-centered interview techniques, which have been demonstrated to minimize
146 retraumatizing victims.