

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Amend the Laws Governing Forensic Examination Kits

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 25 MRSA §2915, as enacted by PL 1999, c. 719, §3 and affected by §11, is amended to read:

§ 2915. Uniform forensic examination kit for evidence collection in alleged cases of sexual assault

1. Development of uniform forensic examination kit. The Department of Public Safety shall determine by rule what constitutes a uniform standardized forensic examination kit for evidence collection in alleged cases of gross sexual assault. The rules must define the contents of the kit, instructions for administering the kit and a checklist that examiners must follow and enclose in the completed kit.

2. Use of uniform forensic examination kit. A licensed hospital or licensed health care practitioner that conducts physical examinations of alleged victims of gross sexual assault shall use the uniform standardized forensic examination kit developed by the Department of Public Safety pursuant to subsection 1. A health care practitioner who conducts physical examinations of alleged victims of gross sexual assault must be trained in the proper evidence collection procedures for conducting a forensic examination.

Evidence collection results may not be excluded as evidence in any proceeding before any court of this State as a result of the examiner's failure to use the standardized evidence collection kit or as a result of the examiner's failure to be trained in the proper procedures for the collection of evidence required by this subsection.

3. Furnishing of uniform forensic examination kit. The Department of Public Safety shall furnish the uniform forensic examination kits to licensed hospitals and licensed health care practitioners that perform forensic examinations of alleged victims of gross sexual assault.

3-A. "Sexual assault" defined. For the purposes of this section, "sexual assault" means any crime enumerated in Title 17-A, chapter 11.

4. Rules. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter ~~H~~A2-A.

Sec. 2. 25 MRSA §3821, as amended by PL 2007, c. 209, §7, is further amended to read:

§ 3821. Transportation and storage of forensic examination kits

For the purposes of this section, "sexual assault" means any crime enumerated in Title 17-A, chapter 11.

If an alleged victim of ~~gross~~ sexual assault has a forensic examination and has not reported the alleged offense to a law enforcement agency when the examination is complete, the licensed hospital or licensed health care practitioner that completed the forensic examination shall notify the nearest law enforcement agency. That law enforcement agency shall transport the completed kit, identified only by a tracking number assigned by ~~the hospital or health care practitioner~~ the kit manufacturer, to its evidence storage facility. The law enforcement agency shall store the kit for at least 90 days from the time of receipt. If during that 90-day period the alleged victim reports the offense to a law enforcement agency, the investigating agency shall take possession of the kit.

In the case of a forensic examination performed under Title 24, section 2986, subsection 5, the law enforcement agency must immediately notify the district attorney for the district in which the hospital or health care practitioner is located that such a forensic examination has been performed and a forensic examination kit has been completed under Title 24, section 2986, subsection 5.

Sec. 3. Rulemaking; exemption from Maine Administrative Procedure Act. The Department of Public Safety shall amend its rules implementing the Maine Revised Statutes, Title 25, sections 2915 and 3821 to reflect the changes set forth in this Act; and, notwithstanding Title 5, part 18, or any other provision of law to the contrary, rule amendments adopted in accordance with this section are not subject to the requirements of the Maine Administrative Procedure Act.

Sec. 4. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 25, chapter 407, in the chapter headnote, the words "transportation and storage of forensic examination kits for alleged victims of gross sexual assault" are amended to read "transportation and storage of forensic examination kits for alleged victims of sexual assault" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

SUMMARY

This bill amends laws governing forensic examination kits to provide for the kits to be used for testing in relation to alleged crimes other than gross sexual assault. This bill also provides that rules that have been adopted by the Department of Public Safety to implement the Maine Revised Statutes, Title 25, sections 2915 and 3821 may be amended to reflect the changes set forth in this Act without triggering the requirements set forth in the Maine Administrative Procedure Act.