

Amending the Sexual Assault Testing and Evidence Collection Act

Act 70 of 2022

The Pennsylvania General Assembly passed a core priority of the Pennsylvania Coalition Against Rape: HB 2032 (Schroeder). Signed into law by Governor Wolf on July 11, 2022, Act 70 of 2022 took effect September 9, 2022. Act 70 will enable victims to access their right to have forensic evidence collected and tested anonymously and will enable the Commonwealth to take the next important step in establishing a statewide tracking system for sexual assault evidence.

Anonymous Evidence

Under the Sexual Assault Testing and Evidence Collection Act (SATEC), victims have the right to request anonymity when seeking medical care and having evidence collected and tested. Under anonymous submissions, victims are able to receive a forensic rape exam without having to make a report to law enforcement and without their names being attached to the evidence. Under anonymous submissions, evidence is to be preserved for the full duration of the current statute of limitations. This is an important option for victims who may be fearful of further harm, or who may need the assurance of privacy and time while they contemplate their next steps.



Anonymity and Reporting Requirements

However, this right to anonymity was in conflict with Title 18, Section 5106 (Failure to report injuries by firearm or criminal act). Under this section of Title 18, healthcare providers were still required to immediately report injuries resulting from crimes to law enforcement, despite anonymous reporting provisions under SATEC. This report was to include the name of the victim, if known. While there was an exception to this requirement for certain injuries associated with domestic violence, the same was not true for sexual assault.

This conflict undermined victims' rights to anonymous evidence submission under SATEC and posed a serious conflict for healthcare providers, who, were working to both honor the wishes and rights of victims, while also reporting what was still required of them under law. Act 70 resolves this conflict by creating a narrow exception to healthcare providers' reporting requirement under Title 18, by amending SATEC.

Limits to Anonymity

Act 70 clarifies that a healthcare provider will NOT commit an offense under Title 18 if they do not report sexual assault injuries to law enforcement when a victim wishes to remain anonymous in certain cases. However, individual victim anonymity is limited if the assault involves three factors: 1.) serious injury, 2.) death, or 3.) a deadly weapon. If any of these three factors are present, a report must be made to law enforcement and

anonymity is not possible. Further, the intent of this Act was not to parse out individual elements of a report—for example, reporting the injury, death, or use of deadly weapon but not sharing information about the victim or the sexual assault. Parsing out reports in this way could be problematic because it would likely limit law enforcement’s ability to fully investigate violent crime and larger threats to the Commonwealth.

Therefore, victim anonymity associated with sexual assault does not apply when:

- 1 The victim is suffering from any wound or injury resulting in serious bodily injury or death
- 2 The victim is suffering from any wound or injury inflicted by means of a deadly weapon

Under Title 18, **serious bodily injury** is defined as: “bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.”

Deadly weapon is defined as: “any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or serious bodily injury, or any other device or instrumentality which, in the manner in which it is used or intended to be used, is calculated or likely to produce death or serious bodily injury.”

Strangulation and Anonymity

Title 18 does not specify whether strangulation is a required report. However, due to the serious bodily injury or death that could result from strangulation, PCAR interprets strangulation as a reportable offense where anonymity does not apply.



Statewide Tracking System

Act 70 also brings us as a Commonwealth an important step closer to accomplishing another core priority for survivors: a statewide tracking system for sexual assault evidence.

Act 70 directs the Pennsylvania State Police to identify the specific resources that are needed to establish a statewide tracking system, in consultation with the Pennsylvania Coalition Against Rape. PSP shall issue a report of its findings and recommendations to the House of Representatives and within 12 months of the bill’s effective date, including the resources and training needed to establish a tracking system, the costs and potential sources of funding associated with the system, the benefits of a tracking system to victims and public safety. This report will be available on the PSP’s publicly accessible internet website.

The new law also specifies that the tracking system shall:

- be operated and managed by the Pennsylvania State Police for the purpose of tracking all rape kits collected for testing or analysis;
- be accessible to sexual assault victims and other authorized users as determined by the State Police;
- function as an online database capable of receiving, maintaining, storing, and preserving tracking information related to rape kits, including:
 - the location and testing status of rape kits,

- victim referrals including individuals' rights as a crime victim under the Crime Victims Act,
- contact information for local rape crisis services and statewide rape crisis hotline services
- allow law enforcement, forensic labs, hospitals, and other healthcare providers to enter information into the system

This is an important next step for Pennsylvania to take in supporting victims of sexual assault and abuse. Approximately 30 other states have already established such a system; federal grants and cost-effective options and assistance are available to us as we pursue this best practice.

A tracking system provides victims with timely information and updates about the status of the evidence while reminding them of their rights as a crime victim and the services available to them, including rape crisis centers, as they heal from sexual violence. We often hear from victims that they do not know what is happening with the evidence after they leave the hospital; a tracking system would provide transparency and some peace-of-mind to survivors as well as support in their healing process.

Finally, a statewide tracking system will help the Commonwealth address and prevent a rape kit backlog by establishing more transparency and efficiency in evidence tracking.

For more information about Act 70, please contact Donna Greco, Public Policy and Legislative Affairs Director, at dgreco@pcar.org or 717-728-9740, x114 or Barbara Sheaffer, Medical Advocacy Coordinator, at bsheaffer@pcar.org or 717-728-9740, x132.