

INTERIM STUDY PROPOSAL 2023-031

State of Arkansas

As Engrossed: H3/14/23

94th General Assembly

A Bill

Regular Session, 2023

HOUSE BILL 1577

By: Representatives Lundstrum, Bentley, Brooks, K. Brown, Burkes, Cavanaugh, Crawford, D. Garner, Gramlich, L. Johnson, Long, McAlindon, McGrew, Pilkington, R. Scott Richardson, Rye, Unger, Wooten
By: Senators C. Penzo, K. Hammer, Irvin

Filed with: House Committee on Judiciary
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING SEXUAL OFFENSES;
TO AMEND THE STATUTE OF LIMITATIONS FOR CERTAIN
SEXUAL OFFENSES; TO AMEND THE LAW CONCERNING SEXUAL
ASSAULT COLLECTION KITS AND ANONYMOUS KITS; TO
REQUIRE A STATEWIDE ACCOUNTING OF ALL UNTESTED SEXUAL
ASSAULT COLLECTION KITS AND UNSUBMITTED ANONYMOUS
KITS; TO MAKE CONFORMING CHANGES; AND FOR OTHER
PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING SEXUAL
OFFENSES, INCLUDING WITHOUT LIMITATION
THE APPLICABLE STATUTE OF LIMITATIONS FOR
AND THE INVESTIGATION OF CERTAIN SEXUAL
OFFENSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 5-1-109(a)(1)(D), concerning offenses for which prosecution may be commenced at any time, is amended to read as follows:

(D) Rape, § 5-14-103, ~~if the victim was a minor at the time of the offense;~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

SECTION 2. Arkansas Code § 12-12-406(a)(3), concerning sexual assault collection kits and the submission of sexual assault kits for testing, is amended to read as follows:

(3) A sexual assault collection kit or an anonymous kit collected by a licensed healthcare provider shall be taken into custody by a law enforcement agency as soon as possible and within three (3) business days of notice from the licensed healthcare provider.

SECTION 3. Arkansas Code § 12-12-406(c) and (d), concerning sexual assault collection kits and the submission of sexual assault kits for testing, are amended to read as follows:

(c) A sexual assault collection kit or an anonymous kit shall be submitted to the laboratory by the receiving law enforcement agency using the sexual assault collection kit tracking number as soon as possible, but no later than fifteen (15) days after receipt of the sexual assault collection kit or anonymous kit.

~~(d)(1) A law enforcement agency is not required to submit an anonymous kit to the laboratory if the victim does not affirmatively request submission.~~ If a victim for whom victim information has been entered into a sexual assault collection kit tracking system chooses to report the sexual assault to the law enforcement agency with jurisdiction, the law enforcement agency with jurisdiction shall submit a request to the laboratory with all known information so that the victim's sexual assault collection kit results can be located at the laboratory and released.

~~(2) If a victim chooses to provide a personal statement about the sexual assault to a law enforcement agency at any time after initially declining to provide a personal statement, the anonymous kit shall be delivered to the laboratory as soon as possible, but no later than fifteen (15) days after the victim chooses to provide a personal statement to the law enforcement agency. A law enforcement agency with jurisdiction shall submit the request required under subdivision (d)(1) of this section to the laboratory as soon as possible, but no later than fifteen (15) days after the victim reports the sexual assault to the law enforcement agency with jurisdiction.~~

1 SECTION 4. Arkansas Code § 12-12-406, concerning sexual assault
2 collection kits and the submission of sexual assault kits for testing, is
3 amended to add an additional subsection to read as follows:

4 (g) A law enforcement agency may contract with one (1) or more parties
5 to assist in meeting the requirement stated in subsection (c) of this
6 section.

7
8 SECTION 5. Arkansas Code Title 12, Chapter 12, Subchapter 4, is
9 amended to add an additional section to read as follows:

10 12-12-407. Audit of untested sexual assault collection kits and
11 unsubmitted anonymous kits.

12 (a) As used in this section:

13 (1) "Unsubmitted anonymous kit" means an anonymous kit that has
14 not been taken into custody by a law enforcement agency and submitted to the
15 State Crime Laboratory; and

16 (2) "Untested sexual assault collection kit" means a sexual
17 assault collection kit that has not been submitted to the State Crime
18 Laboratory or a similar qualified laboratory for either a serology or DNA
19 test.

20 (b)(1) The State Crime Laboratory shall develop a:

21 (A) Sexual assault evidence inventory audit document for a
22 law enforcement agency; and

23 (B) Sexual assault evidence inventory audit document for a
24 licensed healthcare provider.

25 (2)(A) The sexual assault evidence inventory audit document for
26 a law enforcement agency and the sexual assault evidence inventory audit
27 document for a licensed healthcare provider shall be reviewed and updated
28 periodically.

29 (B) The updated sexual assault evidence inventory audit
30 document for a law enforcement agency and the sexual assault evidence
31 inventory audit document for a licensed healthcare provider may be set forth
32 in rules promulgated by the State Crime Laboratory under the Arkansas
33 Administrative Procedure Act, § 25-15-201 et seq.

34 (c) Before December 31 of each year, a law enforcement agency that
35 maintains, stores, or preserves sexual assault evidence shall conduct an
36 audit of all untested sexual assault collection kits, unsubmitted anonymous

1 kits, and any associated evidence being stored by the law enforcement agency
2 and report the information to the State Crime Laboratory, using the sexual
3 assault evidence inventory audit document for a law enforcement agency.

4 (d) Before December 31 of each year, each licensed healthcare provider
5 charged with performing medical-legal examinations shall conduct an audit of
6 all untested sexual assault collection kits and unsubmitted anonymous kits
7 being stored by the licensed healthcare provider and report the information
8 to the State Crime Laboratory, using the sexual assault evidence inventory
9 audit document for a licensed healthcare provider.

10 (e) The State Crime Laboratory may communicate with a licensed
11 healthcare provider or a law enforcement agency for the purpose of
12 coordinating testing and other appropriate handling of sexual assault
13 collection kits and anonymous kits.

14 (f) Except as set forth in subsection (g) of this section, information
15 reported to the State Crime Laboratory under this section, as well as
16 information compiled or accumulated by a licensed healthcare provider or law
17 enforcement agency for the purpose of audits required by this section, is
18 confidential and not subject to discovery under the Arkansas Rules of Civil
19 Procedure or the Freedom of Information Act of 1967, § 25-19-101 et seq.

20 (g)(1) On or before each February 1, the State Crime Laboratory shall
21 prepare and transmit to the President Pro Tempore of the Senate, the Speaker
22 of the House of Representatives, the Senate Committee on Public Health,
23 Welfare, and Labor, the House Committee on Public Health, Welfare, and Labor,
24 and the Attorney General a report containing:

25 (A) A compilation of the data submitted by law enforcement
26 agencies and licensed healthcare providers under this section, with the data
27 reported in the aggregate; and

28 (B) A plan to address any backlog of untested sexual
29 assault collection kits and unsubmitted anonymous kits.

30 (2) The report submitted under subdivision (g)(1) of this
31 section shall be presented to the Senate Committee on Public Health, Welfare,
32 and Labor and the House Committee on Public Health, Welfare, and Labor,
33 meeting jointly.

34 (h) This section does not remove confidentiality protection for an
35 alleged victim of a sexual assault or other sex crime otherwise provided
36 under Arkansas or federal laws, rules, or regulations.

