

SENATE BILL No. 967

May 1, 2018, Introduced by Senators CONYERS, HERTEL and HOOD and referred to the Committee on Judiciary.

A bill to amend 2014 PA 319, entitled "Sexual assault victim's access to justice act," by amending the title and section 2 (MCL 752.952), and by adding section 6a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to create a sexual assault victim's access to justice act; to provide for certain victim's rights in sexual assault cases; **TO PROVIDE FOR THE CREATION AND USE OF A POLICE SEXUAL MISCONDUCT INCIDENT REPORT FORM;** to require certain notifications; and to require certain duties of certain state and local officials and agencies, **AND CERTAIN ENTITIES.**

Sec. 2. As used in this act:

(a) "Forensic laboratory" means a DNA laboratory that has received formal recognition that it meets or exceeds a list of

1 standards, including the FBI director's quality assurance
2 standards, to perform specific tests, established by a nonprofit
3 professional association of persons actively involved in forensic
4 science that is nationally recognized within the forensic community
5 in accordance with the provisions of ~~the federal DNA identification~~
6 ~~act, 42 USC 14132, or subsequent laws.~~ **34 USC 12592.**

7 **(B) "HEALTH CARE FACILITY" INCLUDES A HOSPITAL, CLINIC, OR**
8 **URGENT CARE CENTER THAT IS REGULATED UNDER THE PUBLIC HEALTH CODE,**
9 **1978 PA 368, MCL 333.1101 TO 333.25211, AND ANY OTHER FACILITY THAT**
10 **IS AUTHORIZED TO PROVIDE SEXUAL ASSAULT MEDICAL FORENSIC EXAMS**
11 **UNDER THAT ACT.**

12 **(C) ~~(b)~~**"Investigating law enforcement agency" means the
13 local, county, or state law enforcement agency with the primary
14 responsibility for investigating an alleged sexual assault offense
15 case and includes the employees of that agency. Investigating law
16 enforcement agency includes a law enforcement agency of a community
17 college or university if that law enforcement agency of a community
18 college or university is responsible for collecting sexual assault
19 evidence.

20 **(D) ~~(e)~~**"Law enforcement agency" means the local, county, or
21 state law enforcement agency and includes the employees of that
22 agency. Law enforcement agency includes a law enforcement agency of
23 a community college or university.

24 **(E) "POLICE SEXUAL MISCONDUCT" MEANS SEXUAL CONTACT, SEXUAL**
25 **HARASSMENT, OR SEXUAL PENETRATION BETWEEN AN INDIVIDUAL AND AN**
26 **EMPLOYEE OF A LAW ENFORCEMENT AGENCY WHO USES HIS OR HER STATUS AS**
27 **AN EMPLOYEE OF THE LAW ENFORCEMENT AGENCY TO GAIN ACCESS TO, OR A**

1 RELATIONSHIP WITH, THAT OTHER INDIVIDUAL.

2 (F) ~~(d)~~—"Sexual assault evidence kit" means that term as
3 defined in section 21527 of the public health code, 1978 PA 368,
4 MCL 333.21527.

5 (G) ~~(e)~~—"Sexual assault offense" means a violation or
6 attempted violation of sections 520b to 520g of the Michigan penal
7 code, 1931 PA 328, MCL 750.520b to 750.520g.

8 (H) ~~(f)~~—"Sexual assault victim" means an individual subjected
9 to a sexual assault offense and, for the purposes of making
10 communications and receiving notices under this act, a person
11 designated by the sexual assault victim under section 4.

12 (I) "SEXUAL CONTACT" INCLUDES THE INTENTIONAL TOUCHING OF THE
13 INDIVIDUAL'S OR EMPLOYEE'S INTIMATE PARTS OR THE INTENTIONAL
14 TOUCHING OF THE CLOTHING COVERING THE IMMEDIATE AREA OF THE
15 INDIVIDUAL'S OR EMPLOYEE'S INTIMATE PARTS, IF THAT INTENTIONAL
16 TOUCHING CAN REASONABLY BE CONSTRUED AS BEING FOR THE PURPOSE OF
17 SEXUAL AROUSAL OR GRATIFICATION, DONE FOR A SEXUAL PURPOSE, OR IN A
18 SEXUAL MANNER.

19 (J) "SEXUAL HARASSMENT" MEANS UNWELCOME SEXUAL ADVANCES,
20 REQUESTS FOR SEXUAL FAVORS, AND OTHER VERBAL OR PHYSICAL CONDUCT OR
21 COMMUNICATION OF A SEXUAL NATURE.

22 (K) "SEXUAL PENETRATION" MEANS SEXUAL INTERCOURSE,
23 CUNNILINGUS, FELLATIO, ANAL INTERCOURSE, OR ANY OTHER INTRUSION,
24 HOWEVER SLIGHT, OF ANY PART OF A PERSON'S BODY OR OF ANY OBJECT
25 INTO THE GENITAL OR ANAL OPENINGS OF ANOTHER PERSON'S BODY, BUT
26 EMISSION OF SEMEN IS NOT REQUIRED.

27 SEC. 6A. (1) NOT LATER THAN DECEMBER 31, 2018, THE MICHIGAN

1 DOMESTIC AND SEXUAL VIOLENCE PREVENTION AND TREATMENT BOARD SHALL
2 CREATE A STANDARD POLICE SEXUAL MISCONDUCT INCIDENT REPORT FORM.
3 THE FORM MUST CONTAIN SECTIONS FOR A POLICE SEXUAL MISCONDUCT
4 VICTIM TO PROVIDE ALL OF THE FOLLOWING INFORMATION TO THE BEST OF
5 HIS OR HER KNOWLEDGE:

6 (A) THE LAW ENFORCEMENT AGENCY THAT EMPLOYS AN INDIVIDUAL
7 DESCRIBED UNDER SUBDIVISION (D) AND THAT LAW ENFORCEMENT AGENCY'S
8 MAILING ADDRESS.

9 (B) THE NAME, ADDRESS, HOME AND WORK TELEPHONE NUMBERS, AND
10 PREFERRED CONTACT METHOD OF THE SEXUAL MISCONDUCT VICTIM.

11 (C) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF ANY KNOWN
12 WITNESS.

13 (D) THE FULL NAME AND RANK, AND POST OR WORK LOCATION OF AN
14 EMPLOYEE THAT IS ALLEGED TO HAVE ENGAGED IN POLICE SEXUAL
15 MISCONDUCT.

16 (E) A DESCRIPTION OF THE ALLEGED POLICE SEXUAL MISCONDUCT
17 INCIDENT.

18 (2) NOT LATER THAN MARCH 31, 2019, THE DEPARTMENT OF STATE
19 SHALL MAKE THE FORM CREATED UNDER SUBSECTION (1) AVAILABLE TO THE
20 PUBLIC AT ALL BRANCH OFFICES AND ON ALL SELF-SERVICE STATIONS.

21 (3) NOT LATER THAN MARCH 31, 2019, THE DEPARTMENT OF HEALTH
22 AND HUMAN SERVICES SHALL MAKE THE FORM CREATED UNDER SUBSECTION (1)
23 AVAILABLE TO THE PUBLIC AT ALL OFFICES, INCLUDING, BUT NOT LIMITED
24 TO, COUNTY AND DISTRICT OFFICES.

25 (4) BEGINNING MARCH 31, 2019, A HEALTH CARE FACILITY SHALL
26 ENSURE THAT A POLICE SEXUAL MISCONDUCT VICTIM WHO IS ADMINISTERED A
27 SEXUAL ASSAULT EVIDENCE KIT IS PROVIDED A FORM CREATED UNDER

1 SUBSECTION (1) AND SHALL FORWARD THE COMPLETED FORM TO THE
2 DEPARTMENT OF HEALTH AND HUMAN SERVICES.

3 (5) THE DEPARTMENT OF STATE AND THE DEPARTMENT OF HEALTH AND
4 HUMAN SERVICES SHALL FORWARD A COMPLETED POLICE SEXUAL MISCONDUCT
5 INCIDENT REPORT RECEIVED UNDER SUBSECTION (2), (3), OR (4) TO THE
6 LAW ENFORCEMENT AGENCY LISTED ON THE FORM. IF A LAW ENFORCEMENT
7 AGENCY IS NOT LISTED ON A COMPLETED POLICE SEXUAL MISCONDUCT
8 INCIDENT REPORT FORM, THE DEPARTMENT OF STATE AND THE DEPARTMENT OF
9 HEALTH AND HUMAN SERVICES SHALL FORWARD THAT COMPLETED FORM TO THE
10 DEPARTMENT OF STATE POLICE.

11 (6) THE DEPARTMENT OF STATE POLICE SHALL MAKE REASONABLE
12 EFFORTS TO IDENTIFY THE LAW ENFORCEMENT AGENCY THAT EMPLOYS AN
13 INDIVIDUAL ALLEGED TO HAVE ENGAGED IN POLICE SEXUAL MISCONDUCT IN A
14 REPORT FORWARDED TO THE DEPARTMENT OF STATE POLICE UNDER SUBSECTION
15 (5) AND SHALL COMPLY WITH BOTH OF THE FOLLOWING:

16 (A) IF THE DEPARTMENT OF STATE POLICE IS ABLE TO IDENTIFY THE
17 LAW ENFORCEMENT AGENCY, THE DEPARTMENT OF STATE POLICE SHALL
18 FORWARD THE POLICE SEXUAL MISCONDUCT INCIDENT REPORT FORM TO THAT
19 LAW ENFORCEMENT AGENCY.

20 (B) IF THE DEPARTMENT OF STATE POLICE IS UNABLE TO IDENTIFY
21 THE LAW ENFORCEMENT AGENCY, THE DEPARTMENT OF STATE POLICE SHALL
22 NOTIFY THE POLICE SEXUAL MISCONDUCT VICTIM THAT THE LAW ENFORCEMENT
23 AGENCY WAS NOT IDENTIFIED.

24 Enacting section 1. This amendatory act takes effect 90 days
25 after the date it is enacted into law.

26 Enacting section 2. This amendatory act does not take effect
27 unless Senate Bill No. 968

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of the 99th Legislature is enacted into law.