

**REPORT FROM THE SEXUAL ASSAULT EVIDENCE
TRACKING AND REPORTING COMMISSION**

June 26, 2018

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Report from the Sexual Assault Evidence Tracking and Reporting Commission

This Commission was created pursuant to the Sexual Assault Evidence Submission Act (SAESA), Public Act 100-336 which was sponsored by State Representative Margo McDermed and State Senator Dan McConchie, and signed by Governor Bruce Rauner on August 25, 2017.¹ As required, the Illinois State Police Director Leo Schmitz called the first meeting of the commission on November 16, 2017. The commission members were directed by the SAESA to research options to create a tracking system and develop guidelines and a plan to implement a uniform statewide system to track the location, lab submission status, completion of forensic testing, and storage of sexual assault evidence.

The appointment process for this thirteen-member commission was outlined by the SAESA.² Appointments were as follows: Representative Carol Ammons, appointed by the Speaker of the House of Representatives; Representative Margo McDermed, appointed by the House of Representatives Minority Leader; Senator Melinda Bush, appointed by the President of the Senate; Senator Dan McConchie, appointed by the Senate Minority Leader; Ms. Cindy Hora, appointed by the Attorney General; Commander Arlene Hall, appointed by the Director of the State Police; Mr. Jonathan Lewin, appointed by the Superintendent of the Chicago Police Department; Mr. Ed Wojcicki, Executive Director, Illinois Association of Chiefs of Police; Mr. Jim Kaitschuk, Executive Director of the Illinois Sheriffs Association; Ms. Polly Poskins, a representative of a statewide organization against sexual assault, appointed by the Speaker of House of Representatives; Mr. Mike Nerheim, representative from the Illinois State's Attorney Association, appointed by the Minority Leader of the House of Representatives; Ms. Sarah Calder, a representative of a statewide organization representing hospitals of this state appointed by the Senate President to June 7, 2018; Ms. Sandy Kraiss, a representative of a statewide organization representing hospitals of this state appointed by the Senate President from June 7, 2018; and Ms. Stefanie Clarke, a representative of Illinois Sexual Assault Nurse Examiners appointed by the Senate Minority Leader.

The Commission first met on November 16, 2017, and Representative McDermed was elected Chair by the seven commission members present. The task force met again on January 22, 2018, February 26, 2018, April 16, 2018, June 11, 2018, and June 25, 2018.

Due to the complex nature of implementing a statewide tracking system, it is the recommendation of this commission to pursue the purchase of an off-the-shelf electronic tracking system for statewide implementation. Additionally, this Commission was responsible for the development of guidelines and a plan for the implementation of an

¹ 725 ILCS 202/43

² 725 ILCS 202/43 (a)

electronic uniform statewide system, ensuring secure access and safeguards for confidentiality, which are outlined in the first and second sections of this report.

The Commission also reviewed sources to fund this plan, which are outlined in section three of this report.

The Commission also recommends potential changes to law or policy in order to implement a statewide tracking system, which are outlined in section four of this report.

I. Recommendation for a tracking system, guidelines and plan to implement a uniform statewide tracking system to track sexual assault evidence

Due to the complex nature of a statewide tracking system for sexual assault evidence and to ensure all stakeholders are integrated, the Commission recommends the purchase of an electronic off-the-shelf tracking system. The system must be able to communicate with all stakeholders and provide real-time information to a victim or his/her designee on the status of the evidence that was collected. The recommended requirements are outlined below.

The Illinois sexual assault evidence tracking system must:

- be electronic and web-based
- be administered by the Illinois State Police
- have 365/24/7 help desk availability; perhaps a tiered approach
- ensure Law Enforcement Agency (LEA) contact information is accessible to the victim or his/her designee through the tracking system, so there is contact information for questions
- have the option for external connectivity to evidence management systems, laboratory information management systems (LIMS) or other electronic data systems already in existence by any of the stakeholders to minimize additional burdens/tasks on stakeholders
- allow for the victim to opt in for automatic notifications when status updates are entered in the system , if system allows
- include at each step in the process, a brief explanation of the general purpose of that step and a general indication of how long the step may take to complete
- contain minimum Fields for tracking and reporting, as follows:
 - Kit Vendor Fields:
 - Enter kit identification numbers provided to each Health Care Facility (HCF)
 - Date the kits were sent to the HCF
 - HCF Fields:
 - Date kit/evidence was collected
 - Date notification was made to LEA that a kit/evidence was collected
 - LEA Fields:
 - Date LEA takes possession of the kit/evidence from the HCF, another LEA, or victim if he/she did not go thru HCF
 - LEA complaint number(s)
 - If the LEA that takes possession of a kit from a HCF is not the LEA with jurisdiction in which the offense occurred, date when the LEA notified the LEA having jurisdiction that they have a kit/evidence. (LEA must notify the LEA having jurisdiction of the case within 24 hours of taking a sexual assault report (725 ILCS 203/20 (c)))

- Indication if the victim consented for analysis of the kit/evidence
- If the victim did not consent for analysis of the kit/evidence, the date on which the LEA is no longer required to store the kit/evidence. By law it must meet the minimum of 5 years from the date of collection or for minors 5 years from the date of their 18th birthday. This must be adjustable to account for changes in the law.
- Mechanism for the LEA to document why the kit/evidence was not submitted to the laboratory for analysis, if applicable
- Date LEA received the kit/evidence results back from the laboratory
- Date statutory notification(s) made to victim (Law requires LEA to notify the victim of the following: date the evidence was submitted to the lab, testing results, etc.) or documentation of why notification was not made
- Date the LEA turned over the case information to the State's Attorney Office (SAO), if applicable
- Forensic Lab Fields
 - Date the kit/evidence is received from the LEA by the forensic lab for analysis
 - Entry of laboratory case number (this number needs to only be visible to LEA and SAO)
 - Date the laboratory completes the analysis of the kit/evidence
- SAO Fields
 - Date SAO received the kit/evidence results from the laboratory, if applicable
 - Disposition/status of the case

See Appendix A for a flow chart diagram of this process. The above guidelines were developed to provide the necessary information to all stakeholders, while allowing limited access to some information that is not necessary to be viewed by all stakeholder.

II. Guidelines and a plan to implement a system with secured electronic access and to safeguard confidentiality and limit disclosure of information

The Commission also developed guidelines for secure electronic access to a tracking system for a victim, or his/her designee to access information on the status of the evidence collected. Additionally, the Commission recommends minimum guidelines in order to safeguard confidentiality of the information contained within this statewide tracking system. The recommended requirements are outlined below.

The Illinois sexual assault evidence tracking system must:

- allow for secure access, controlled by an administering body who can restrict user access and allow different permissions based on the need of that particular user (e.g., HCF-X has access to track and generate reports only on the kits it used to collect evidence; LEA-X has the ability to track and generate reports only on the kits in their custody, etc.). HCF users may include out-of-state border hospitals, if authorized by ISP to obtain IL kits from vendor.
- provide for users (other than victims) the ability to provide for any individual who is granted access to the program their own unique user ID and password
- provide for victims: a mechanism for a victim to enter the system and only access his/her own information
- enable kit/evidence to be tracked and identified through the unique kit identification number (and/or barcode) that the vendor applies to each kit per ISP contract
- have a mechanism to inventory unused kits provided to HCF from the vendor
- provide users the option to either scan the bar code or manually enter the kit number into the tracking program
- provide a mechanism to create a separate unique identification number for cases in which an IL kit was not collected, but other evidence (clothing, out-of-state kit, urine, etc.) was collected
- provide the ability to record date, time, and user ID whenever any user accesses the system
- provide for real-time entry/update of data
- contain report functions including:
 - HCF compliance with applicable laws
 - LEA compliance with applicable laws
 - LEA annual inventory of cases to SAO
 - Forensic lab compliance with applicable laws
- provide automatic notifications to LEA when:
 - an HCF has collected kit/evidence (Law requires LEA to take custody as soon as practicable but in no event more than 5 days)
 - unreleased kit/evidence being stored by the LEA has met the minimum storage requirement by law (This needs to be configurable based on current law.)

- time lines as required by law are not met for a particular case, if not otherwise documented in the program, such as in 2.c.v. of this document. (Must be submitted within 10 business days)

These guidelines were developed to ensure secure access by all stakeholders and ensure only appropriate individuals have access information relevant to his/her case. Additionally, guidelines were established which will include reporting functions and notifications to assist in compliance with applicable laws by the stakeholders.

III. Recommendation on sources of public and private funding to implement the plans developed under I and II

It is this Commission's recommendation, prior to pursuing the purchase of an off-the shelf electronic tracking system, that grant funding be explored to assist in the initial purchase and implementation of a system. However, an increase to the annual appropriation for the administration of the "Statewide Sexual Assault Evidence Collection Program" from General Revenue must also be included to provide on-going support and maintenance of any electronic tracking system purchased, and/or if appropriate grants are not identified or are insufficient for initial purchase.

IV. Recommended changes to law or policy required to support the implementation of the plan developed under I and II

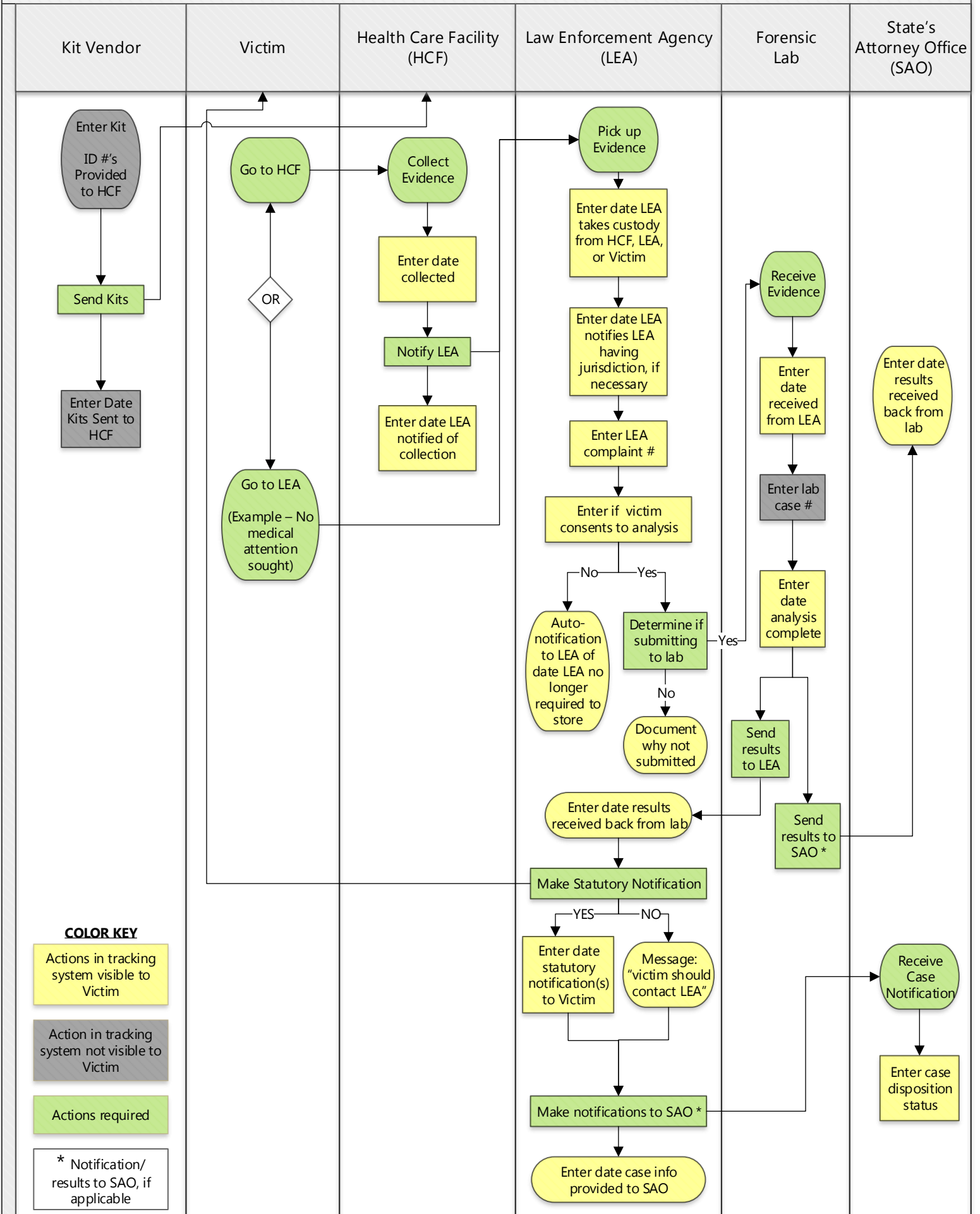
It is this Commission's recommendation that legislative changes are necessary to implement a uniform statewide tracking system and mandate participation and compliance by all stakeholders in this tracking system. At a minimum, participation must include entering data for the location, lab submission status, completion of forensic testing, and storage of sexual assault evidence. This Commission further recommends that any new statutory changes for stakeholders must be evaluated in light of existing laws, for example the Sexual Assault Incident Procedure Act (725 ILCS 203/1), to avoid the creation of redundant or conflicting requirements.

This Commission strongly recommends (a) adding a statutory exemption to 5 ILCS 140/7.5 that all information contained and tracked in any uniform statewide sexual assault evidence tracking system be exempt from Freedom of Information Act (FOIA) requests, and (b) referring to the FOIA exemption in any statute authorizing or governing the tracking system.

In summary, this Commission has provided recommendations for a uniform statewide tracking system, guidelines for the creation and safe guarding of confidential information, potential sources of funding, and potential changes to law or policy to support the implementation of such a system.

Attachments

TRACKING FLOW CHART



1 AN ACT concerning criminal law.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Sexual Assault Evidence Submission Act is
5 amended by changing Section 5 and by adding Section 43 as
6 follows:

7 (725 ILCS 202/5)

8 Sec. 5. Definitions. In this Act:

9 "Commission" means the Sexual Assault Evidence Tracking
10 and Reporting Commission.

11 "Department" means the Department of State Police or
12 Illinois State Police.

13 "Law enforcement agencies" means local, county, State or
14 federal law enforcement agencies involved in the investigation
15 of sexual assault cases in Illinois.

16 "Sexual assault evidence" means evidence collected in
17 connection with a sexual assault investigation, including, but
18 not limited to, evidence collected using the State Police
19 Evidence Collection Kits.

20 (Source: P.A. 96-1011, eff. 9-1-10.)

21 (725 ILCS 202/43 new)

22 Sec. 43. Sexual Assault Evidence Tracking and Reporting

Assistant
Clerk of the House

Brad Bolin

originated in the House of Representatives

PUBLIC ACT 100-336

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1 Commission.

2 (a) The Sexual Assault Evidence Tracking and Reporting
3 Commission is created to research and develop a plan to create
4 and implement a statewide mechanism to track and report sexual
5 assault evidence information. The Commission shall consist of
6 the following members:

7 (1) one member of the House of Representatives,
8 appointed by the Speaker of the House of Representatives;

9 (2) one member of the House of Representatives,
10 appointed by the Minority Leader of the House of
11 Representatives;

12 (3) one member of the Senate, appointed by the
13 President of the Senate;

14 (4) one member of the Senate, appointed by the Minority
15 Leader of the Senate;

16 (5) the Attorney General, or his or her designee;

17 (6) the Director of State Police, or his or her
18 designee;

19 (7) the Superintendent of the Chicago Police
20 Department, or his or her designee;

21 (8) the Director of a statewide organization
22 representing sheriffs of this State;

23 (9) the Director of a statewide organization
24 representing chiefs of police of this State;

25 (10) a representative of a statewide organization
26 against sexual assault, appointed by the Speaker of the

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1 House of Representatives;

2 (11) a representative of the Illinois State's
3 Attorneys Association, appointed by the Minority Leader of
4 the House of Representatives;

5 (12) a representative of a statewide organization
6 representing hospitals of this State appointed by the
7 Senate President; and

8 (13) a representative of Illinois Sexual Assault Nurse
9 Examiners appointed by the Senate Minority Leader.

10 (b) The members appointed to the Commission under
11 subsection (a) of this Section shall be appointed within 60
12 days after the effective date of this amendatory Act of the
13 100th General Assembly.

14 (c) The first meeting of the Commission shall be called by
15 the Director of the Department, or his or her designee, no
16 later than 30 days after all the members of the Commission have
17 been appointed. At the first meeting, the Commission shall
18 elect from its members a chairperson and other officers as it
19 considers necessary or appropriate.

20 (d) The members of the Commission shall serve without
21 compensation.

22 (e) The Department shall provide administrative and other
23 support to the Commission.

24 (f) The Commission shall within one year of its initial
25 meeting:

26 (1) research options to create a tracking system and

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1 develop guidelines and a plan to implement a uniform
 2 statewide system to track the location, lab submission
 3 status, completion of forensic testing, and storage of
 4 sexual assault evidence;

5 (2) develop guidelines and a plan to implement a system
 6 with secure electronic access that allows a victim, or his
 7 or her designee, to access or receive information about the
 8 location, lab submission status, and storage of sexual
 9 assault evidence that was gathered from him or her,
 10 provided that the disclosure does not impede or compromise
 11 an ongoing investigation;

12 (3) develop guidelines and a plan to safeguard
 13 confidentiality and limited disclosure of the information
 14 contained in the statewide system;

15 (4) recommend sources of public and private funding to
 16 implement the plans developed under this subsection (f);

17 (5) recommend changes to law or policy required to
 18 support the implementation of the plans developed under
 19 this subsection (f); and

20 (6) report its findings and recommendations to submit
 21 any and all proposed legislation to the Governor and
 22 General Assembly.

23 (g) This Section is repealed on January 1, 2019.

24 Section 99. Effective date. This Act takes effect upon
 25 becoming law.

APPROVED

Michael J. Madigan

Speaker, House of Representatives

John J. Cullerton
 President of the Senate

15 25 day of August, 20 17 A.D.,

Bruce Rauner
 GOVERNOR