



Sen. Toi W. Hutchinson

**Filed: 3/11/2010**

09600SB3269sam001

LRB096 20396 RLC 38719 a

1 AMENDMENT TO SENATE BILL 3269

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3269 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Sexual Assault Evidence Submission Act.

6 Section 5. Definitions. In this Act:

7 "Department" means the Department of State Police or  
8 Illinois State Police.

9 "Law enforcement agencies" means local, county, State or  
10 federal law enforcement agencies involved in the investigation  
11 of sexual assault cases in Illinois.

12 "Sexual assault evidence" means evidence collected using  
13 the State Police Evidence Collection Kits.

14 Section 10. Submission of evidence. Law enforcement  
15 agencies that receive sexual assault evidence in connection

1 with the investigation of a criminal case on or after the  
2 effective date of this Act must submit evidence from the case  
3 within 10 business days of receipt to a Department of State  
4 Police forensic laboratory or a laboratory approved and  
5 designated by the Director of State Police. Sexual assault  
6 evidence received by a law enforcement agency within 30 days  
7 prior to the effective date of this Act shall be submitted  
8 pursuant to this Section.

9 Section 15. Analysis of evidence. All sexual assault  
10 evidence submitted to the Department of State Police on or  
11 after the effective date of this Act shall be analyzed and  
12 tested within 6 months after receipt of all necessary evidence  
13 and standards by the State Police Laboratory if sufficient  
14 staffing and resources are available.

15 Section 20. Inventory of evidence. Within 30 business days  
16 after the effective date of this Act, each Illinois law  
17 enforcement agency shall provide written notice to the  
18 Department of State Police, in a form and manner prescribed by  
19 the Department, stating the number of sexual assault cases in  
20 the custody of the law enforcement agency that have not been  
21 previously submitted to a laboratory for analysis. Appropriate  
22 arrangements shall be made between the law enforcement agency  
23 and the Department of State Police, or a laboratory approved  
24 and designated by the Director of State Police, to ensure that

1 all cases that were collected prior to the effective date of  
2 this Act and are, or were at the time of collection, the  
3 subject of a criminal investigation, are submitted to the  
4 Department of State Police, or a laboratory approved and  
5 designated by the Director of State Police within 180 days  
6 after the effective date of this Act. By October 1, 2010, the  
7 Department of State Police shall submit to the Governor and  
8 both houses of the General Assembly a plan for analyzing cases  
9 submitted pursuant to this Section. The plan shall include a  
10 timeline for completion of analysis, as well as requests for  
11 funding and resources necessary to meet the established  
12 timeline.

13 Section 25. Failure of a law enforcement agency to submit  
14 the sexual assault evidence. The failure of a law enforcement  
15 agency to submit the sexual assault evidence collected on or  
16 after the effective date of this Act within 10 business days  
17 after receipt shall in no way alter the authority of the law  
18 enforcement agency to submit the evidence or the authority of  
19 the Department of State Police forensic laboratory or  
20 designated laboratory to accept and analyze the evidence or  
21 specimen or to maintain or upload the results of genetic marker  
22 grouping analysis information into a local, state, or national  
23 database in accordance with established protocol.

24 Section 30. Required certification. Each submission of

1 sexual assault evidence submitted for analysis pursuant to this  
2 Act shall be accompanied by the following signed certification:

3 "This evidence is being submitted by (name of investigating  
4 law enforcement agency) in connection with a criminal  
5 investigation."

6 Section 35. Expungement. If the Department receives  
7 written confirmation from the investigating law enforcement  
8 agency or State's Attorney's office that a DNA record that has  
9 been uploaded pursuant to this Act into a Local, State or  
10 national DNA database was not connected to a criminal  
11 investigation, the DNA record shall be expunged from the DNA  
12 database and the Department shall, by rule, prescribe  
13 procedures to ensure that the record in the possession or  
14 control of the Department is destroyed and that a letter is  
15 sent to the submitting law enforcement agency verifying the  
16 expungement.

17 Section 40. Failure to expunge. The failure to expunge a  
18 DNA record or strictly comply with the provisions of Section 35  
19 of this Act shall not be grounds for challenging the validity  
20 of a database match or database information, and evidence based  
21 upon or derived from the DNA record may not be excluded by a  
22 court.

23 Section 45. Rules. The Department of State Police shall

1 promulgate rules that prescribe the procedures for the  
2 operation of this Act, including expunging a DNA record.

3 Section 90. The Sexual Assault Survivors Emergency  
4 Treatment Act is amended by changing Section 6.4 as follows:

5 (410 ILCS 70/6.4) (from Ch. 111 1/2, par. 87-6.4)

6 Sec. 6.4. Sexual assault evidence collection program.

7 (a) There is created a statewide sexual assault evidence  
8 collection program to facilitate the prosecution of persons  
9 accused of sexual assault. This program shall be administered  
10 by the Illinois State Police. The program shall consist of the  
11 following: (1) distribution of sexual assault evidence  
12 collection kits which have been approved by the Illinois State  
13 Police to hospitals that request them, or arranging for such  
14 distribution by the manufacturer of the kits, (2) collection of  
15 the kits from hospitals after the kits have been used to  
16 collect evidence, (3) analysis of the collected evidence and  
17 conducting of laboratory tests, (4) maintaining the chain of  
18 custody and safekeeping of the evidence for use in a legal  
19 proceeding, and (5) the comparison of the collected evidence  
20 with the genetic marker grouping analysis information  
21 maintained by the Department of State Police under Section  
22 5-4-3 of the Unified Code of Corrections and with the  
23 information contained in the Federal Bureau of Investigation's  
24 National DNA database; provided the amount and quality of

1 genetic marker grouping results obtained from the evidence in  
2 the sexual assault case meets the requirements of both the  
3 Department of State Police and the Federal Bureau of  
4 Investigation's Combined DNA Index System (CODIS) policies.  
5 The standardized evidence collection kit for the State of  
6 Illinois shall be the Illinois State Police Sexual Assault  
7 Evidence Kit. A sexual assault evidence collection kit may not  
8 be released by a hospital without the written consent of the  
9 sexual assault survivor. In the case of a survivor who is a  
10 minor 13 years of age or older, evidence and information  
11 concerning the sexual assault may be released at the written  
12 request of the minor. If the survivor is a minor who is under  
13 13 years of age, evidence and information concerning the  
14 alleged sexual assault may be released at the written request  
15 of the parent, guardian, investigating law enforcement  
16 officer, or Department of Children and Family Services. If the  
17 survivor is an adult who has a guardian of the person, a health  
18 care surrogate, or an agent acting under a health care power of  
19 attorney, then consent of the guardian, surrogate, or agent is  
20 not required to release evidence and information concerning the  
21 sexual assault. If the adult is unable to provide consent for  
22 the release of evidence and information and a guardian,  
23 surrogate, or agent under a health care power of attorney is  
24 unavailable or unwilling to release the information, then an  
25 investigating law enforcement officer may authorize the  
26 release. Any health care professional, including any

1 physician, advanced practice nurse, physician assistant, or  
2 nurse, sexual assault nurse examiner, and any health care  
3 institution, including any hospital, who provides evidence or  
4 information to a law enforcement officer pursuant to a written  
5 request as specified in this Section is immune from any civil  
6 or professional liability that might arise from those actions,  
7 with the exception of willful or wanton misconduct. The  
8 immunity provision applies only if all of the requirements of  
9 this Section are met.

10 (a-5) (Blank). ~~All sexual assault evidence collected using~~  
11 ~~the State Police Evidence Collection Kits before January 1,~~  
12 ~~2005 (the effective date of Public Act 93-781) that have not~~  
13 ~~been previously analyzed and tested by the Department of State~~  
14 ~~Police shall be analyzed and tested within 2 years after~~  
15 ~~receipt of all necessary evidence and standards into the State~~  
16 ~~Police Laboratory if sufficient staffing and resources are~~  
17 ~~available. All sexual assault evidence collected using the~~  
18 ~~State Police Evidence Collection Kits on or after January 1,~~  
19 ~~2005 (the effective date of Public Act 93-781) shall be~~  
20 ~~analyzed and tested by the Department of State Police within~~  
21 ~~one year after receipt of all necessary evidence and standards~~  
22 ~~into the State Police Laboratory if sufficient staffing and~~  
23 ~~resources are available.~~

24 (b) The Illinois State Police shall administer a program to  
25 train hospitals and hospital personnel participating in the  
26 sexual assault evidence collection program, in the correct use

1 and application of the sexual assault evidence collection kits.  
2 A sexual assault nurse examiner may conduct examinations using  
3 the sexual assault evidence collection kits, without the  
4 presence or participation of a physician. The Department shall  
5 cooperate with the Illinois State Police in this program as it  
6 pertains to medical aspects of the evidence collection.

7 (c) In this Section, "sexual assault nurse examiner" means  
8 a registered nurse who has completed a sexual assault nurse  
9 examiner (SANE) training program that meets the Forensic Sexual  
10 Assault Nurse Examiner Education Guidelines established by the  
11 International Association of Forensic Nurses.

12 (Source: P.A. 95-331, eff. 8-21-07; 95-432, eff. 1-1-08;  
13 96-318, eff. 1-1-10.)

14 Section 99. Effective date. This Act takes effect September  
15 1, 2010."