

CS FOR SENATE BILL NO. 193(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to sexual assault examination kits; establishing the sexual assault**
2 **examination kit tracking system; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 12.61.010(a) is amended to read:

5 (a) Victims of crimes have the following rights:

6 (1) the right to be present during any proceeding in

7 (A) the prosecution and sentencing of a defendant if the
8 defendant has the right to be present, including being present during testimony
9 even if the victim is likely to be called as a witness;

10 (B) the adjudication of a minor as provided under
11 AS 47.12.110;

12 (2) the right to be notified by the appropriate law enforcement agency
13 or the prosecuting attorney of any request for a continuance that may substantially
14 delay the prosecution and of the date of trial, sentencing, including a proceeding

1 before a three-judge panel under AS 12.55.175, an appeal, and any hearing in which
2 the defendant's release from custody is considered;

3 (3) the right to be notified that a sentencing hearing or a court
4 proceeding to which the victim has been subpoenaed will not occur as scheduled;

5 (4) the right to receive protection from harm and threats of harm
6 arising out of cooperation with law enforcement and prosecution efforts and to be
7 provided with information as to the protection available;

8 (5) the right to be notified of the procedure to be followed to apply for
9 and receive any compensation under AS 18.67;

10 (6) at the request of the prosecution or a law enforcement agency, the
11 right to cooperate with the criminal justice process without loss of pay and other
12 employee benefits except as authorized by AS 12.61.017 and without interference in
13 any form by the employer of the victim of crime;

14 (7) the right to obtain access to immediate medical assistance and not
15 to be detained for an unreasonable length of time by a law enforcement agency before
16 having medical assistance administered; however, an employee of the law
17 enforcement agency may, if necessary, accompany the person to a medical facility to
18 question the person about the criminal incident if the questioning does not hinder the
19 administration of medical assistance;

20 (8) the right to make a written or oral statement for use in preparation
21 of the presentence report of a felony defendant;

22 (9) the right to appear personally at the defendant's sentencing hearing
23 to present a written statement and to give sworn testimony or an unsworn oral
24 presentation;

25 (10) the right to be informed by the prosecuting attorney, at any time
26 after the defendant's conviction, about the complete record of the defendant's
27 convictions;

28 (11) the right to notice under AS 12.47.095 concerning the status of the
29 defendant found not guilty by reason of insanity;

30 (12) the right to notice under AS 33.16.087 of a hearing concerning
31 special medical parole of the defendant;

1 (13) the right to notice under AS 33.16.120 of a hearing to consider or
2 review discretionary parole of the defendant;

3 (14) the right to notice under AS 33.30.013 of the release or escape of
4 the defendant; [AND]

5 (15) the right to be notified orally and in writing of and receive
6 information about the office of victims' rights from the law enforcement officer
7 initially investigating the crime and from the prosecuting attorney assigned to the
8 offense; at a minimum, the information provided must include the address, telephone
9 number, and Internet address of the office of victims' rights; this paragraph

10 (A) applies only to victims of felonies and to victims of class A
11 misdemeanors if the class A misdemeanor is a crime involving domestic
12 violence or a crime against a person under AS 11.41; if the victim is an
13 unemancipated minor, the law enforcement officer and the prosecuting
14 attorney shall also provide the notice required by this paragraph to the parent
15 or guardian of the minor;

16 (B) is satisfied if, at the time of initial contact with the crime
17 victim, the investigating officer and prosecuting attorney each give each crime
18 victim a brochure or other written material prepared by the office of victims'
19 rights and provided to law enforcement agencies for that purpose; **and**

20 **(16) the right to be notified of the location and testing date of a**
21 **sexual assault examination kit collected from the victim.**

22 * **Sec. 2.** AS 44.41.065(a) is amended to read:

23 (a) When [A LAW ENFORCEMENT AGENCY COLLECTS] a sexual
24 assault examination kit **is used to gather evidence** under AS 18.68.010, [THE
25 AGENCY SHALL]

26 (1) **a health care provider that gathers the evidence shall, within 14**
27 **days after gathering the evidence, notify the appropriate law enforcement agency**
28 **that the sexual assault examination kit is available to be sent to an accredited**
29 **laboratory in coordination with the Department of Public Safety or a laboratory**
30 **operated by the Department of Public Safety;**

31 (2) **a law enforcement agency that gathers the evidence or that is**

notified by a health care provider under (1) of this subsection shall,

(A) within **20** [30] days after **gathering the evidence or receiving notification from the health care provider** [THE AGENCY COLLECTS THE SEXUAL ASSAULT EXAMINATION KIT], send the sexual assault examination kit to an accredited laboratory in coordination with the Department of Public Safety or a laboratory operated by the Department of Public Safety; **and**

(B) [(2) ENSURE THAT THE LABORATORY TO WHICH THE SEXUAL ASSAULT EXAMINATION KIT IS SENT UNDER (1) OF THIS SUBSECTION CONDUCTS A SEROLOGICAL OR DNA TEST ON THE SEXUAL ASSAULT EXAMINATION KIT WITHIN SIX MONTHS AFTER THE LABORATORY RECEIVES THE SEXUAL ASSAULT EXAMINATION KIT; AND (3)] within two weeks after the laboratory that receives the sexual assault examination kit under [(1) OF] this subsection completes serological or DNA testing, make a reasonable effort to notify the victim from whom the sexual assault examination kit was collected that the sexual assault examination kit has been tested; **and**

(3) a laboratory to which the sexual assault examination kit is sent under (2) of this subsection shall, within 120 days after receiving the sexual assault examination kit, conduct a serological or DNA test on the sexual assault examination kit.

* **Sec. 3.** AS 44.41.065(b) is amended to read:

(b) A criminal action may not be dismissed nor the evidence deemed nonadmissible for failure to be tested within the times established in **(a)** [(a)(1) AND (2)] of this section.

* **Sec. 4.** AS 44.41.065(c) is amended to read:

(c) If a case is resolved before a sexual assault examination kit is tested, a **health care provider, law enforcement agency, or laboratory in possession of the sexual assault examination kit** is not required to meet the time limits established in (a) of this section.

* **Sec. 5.** AS 44.41.065 is amended by adding a new subsection to read:

1 (e) A health care provider, law enforcement agency, or laboratory in
2 possession of a sexual assault examination kit shall enter information specified by the
3 Department of Public Safety into the sexual assault examination kit tracking system
4 under AS 44.41.067. The information must be entered at the time and in the form and
5 manner specified by the Department of Public Safety.

6 * **Sec. 6.** AS 44.41 is amended by adding a new section to read:

7 **Sec. 44.41.067. Sexual assault examination kit tracking system.** (a) The
8 Department of Public Safety shall develop and operate a sexual assault examination
9 kit tracking system to track the status and location of a sexual assault examination kit
10 from the point of evidence collection to serological or DNA testing.

11 (b) The sexual assault examination kit tracking system must allow the victim
12 from whom the sexual assault examination kit was collected to access the tracking
13 information associated with the kit and, if the victim chooses, receive automated
14 notifications of the status of the kit.

15 (c) The sexual assault examination kit tracking system is confidential and is
16 not a public record under AS 40.25.110 - 40.25.140, except that the Department of
17 Public Safety may include information from the tracking system in the report required
18 under AS 44.41.070.

19 * **Sec. 7.** AS 44.41.070(a) is repealed.

20 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 **TRANSITION: REGULATIONS.** The Department of Public Safety may adopt
23 regulations necessary to implement the changes made by this Act. The regulations take effect
24 under AS 44.62 (Administrative Procedure Act) but not before the effective date of the law
25 implemented by the regulation.

26 * **Sec. 9.** Section 8 of this Act takes effect immediately under AS 01.10.070(c).