

HOUSE BILL NO. HB0195

Sexual assault medical examinations-statewide inventory.

Sponsored by: Representative(s) Esquibel, K., Campbell,
Dayton, Halverson, Harvey, Kasperik and
Throne and Senator(s) Craft

A BILL

for

1 AN ACT relating to sexual assaults; establishing procedures
2 to determine whether a backlog of sexual assault medical
3 examinations exists; providing for an accounting of
4 forensic medical examination information; requiring
5 rulemaking; requiring reports; providing definitions;
6 providing an appropriation; authorizing a position;
7 providing a repeal date as specified; and providing for an
8 effective date.

9

10 *Be It Enacted by the Legislature of the State of Wyoming:*

11

12 **Section 1.** W.S. 7-19-407 and 7-19-408 are created to
13 read:

14

1 **7-19-407. Forensic medical evidence in sexual assault**
2 **cases; definitions; rules; compliance.**

3
4 (a) As used in W.S. 7-19-407 and 7-19-408:

5
6 (i) "Forensic medical evidence" means the
7 deoxyribonucleic acid (DNA) evidence gathered during a
8 medical examination conducted pursuant to W.S. 6-2-309;

9
10 (ii) "Forensic medical examination" means the
11 medical examination authorized in W.S. 6-2-309 for the
12 purposes of gathering and preserving evidence of a sexual
13 assault for use in a court of law.

14
15 (b) Not later than April 15, 2015, the division shall
16 begin the process of promulgating rules and regulations
17 governing the policies and procedures for the collection of
18 forensic medical evidence collected in connection with an
19 alleged sexual assault. Rules under this section shall
20 include:

1 (i) A requirement that forensic medical evidence
2 shall be collected if a victim of an alleged sexual assault
3 requests it to be collected;

4
5 (ii) Identification of evidence to be submitted
6 to the division;

7
8 (iii) Time frames for submission and analysis of
9 evidence. The rules and regulations on time frames shall
10 provide that evidence that meets the criteria for mandatory
11 submission shall be submitted within twenty-one (21) days
12 after receipt by a law enforcement agency;

13
14 (iv) Standards for consent for the collection,
15 testing and release of test results of the forensic medical
16 evidence, including:

17
18 (A) Consent forms that notify persons of
19 the potential effects of each step of the process,
20 including collection, testing and release of test results
21 and require acknowledgement of consent for each step of the
22 process;

23

1 (B) Identification of persons who may give
2 consent and when consent is required;

3

4 (C) Identification of persons who may
5 withdraw consent and when consent may be withdrawn; and

6

7 (D) Specification of the time, method and
8 purposes for release of test results and for what purposes.

9

10 (v) A plan for prioritizing the testing of the
11 backlog of forensic medical evidence to be forwarded to the
12 division pursuant to W.S. 7-19-408(b) and a plan for
13 testing newly collected forensic medical evidence once the
14 backlog is resolved; and

15

16 (vi) The date, as soon as practicable, by which
17 a law enforcement agency shall analyze its backlog of
18 forensic medical evidence if it does not forward that
19 evidence to the division for analysis.

20

21 (c) Law enforcement and medical personnel shall not,
22 for any reason, discourage a victim of an alleged sexual
23 assault from receiving a forensic medical examination.

1

2 (d) Not later than ninety (90) days after the
3 division has adopted the rules and regulations required
4 under subsection (b) of this section, all law enforcement
5 agencies in the state shall comply with the adopted rules.
6 The failure of a law enforcement agency to comply with the
7 rules and regulations does not affect:

8

9 (i) The authority of the law enforcement agency
10 to submit the evidence to the division;

11

12 (ii) The authority of the division to analyze
13 the evidence or provide results of the analysis to
14 appropriate persons; or

15

16 (iii) The admissibility of the evidence in any
17 court.

18

19 (e) Not later than ninety (90) days after the
20 division has adopted the rules and regulations required
21 under subsection (b) of this section, all law enforcement
22 personnel at a medical facility performing a forensic
23 medical examination and all other persons having custody of

1 forensic medical evidence collected in connection with an
2 alleged sexual assault or the results of tests conducted on
3 the evidence shall comply with the adopted rules.

4
5 (f) A person who receives evidence or results of
6 tests under this section shall not disclose the evidence or
7 results except to the extent that disclosure is consistent
8 with the authorized purpose for which the person obtained
9 the evidence.

10
11 **7-19-408. Forensic medical evidence in sexual assault**
12 **cases; backlog; compliance; repeal.**

13
14 (a) Not later than July 1, 2015, each law enforcement
15 agency in the state shall submit to the division an
16 inventory of all forensic medical evidence the law
17 enforcement agency has of any alleged sexual assault that
18 has not been analyzed by the division and that is for an
19 active criminal case. The division shall compile all
20 information it receives under this subsection in
21 preparation of:

1 (i) Developing a plan to address any backlog of
2 forensic medical evidence identified in the inventories it
3 receives from law enforcement agencies in the state; and
4

5 (ii) Preparing the report required under
6 subsection (d) of this section.
7

8 (b) Not later than October 1, 2015, each law
9 enforcement agency in the state shall forward to the
10 division the forensic medical evidence identified on the
11 law enforcement agency's inventory submitted to the
12 division. The division shall begin analyzing the forensic
13 medical evidence submitted by law enforcement agencies in
14 the state under this section to the extent practicable with
15 its existing capabilities.
16

17 (c) Notwithstanding subsections (a) and (b) of this
18 section, a law enforcement agency in this state may develop
19 its own plan to analyze forensic medical evidence of
20 alleged sexual assaults if all evidence is analyzed by the
21 date specified by rule pursuant to W.S. 7-19-407(b)(iii).
22 If a law enforcement agency develops its own plan, it shall
23 not forward an inventory of the forensic medical evidence

1 to the division as required by subsection (a) of this
2 section, but shall notify the division that the law
3 enforcement agency has developed its own plan pursuant to
4 this subsection.

5
6 (d) Not later than December 1, 2015, the division
7 shall submit to the governor and the joint judiciary
8 interim committee a report which includes at minimum a
9 proposed plan for analyzing as soon as practicable all of
10 the forensic medical evidence of alleged sexual assaults
11 inventoried pursuant to subsection (a) of this section and
12 a request, as necessary, for additional staff and funding
13 to resolve any backlog of forensic medical evidence
14 identified in the inventories the division receives from
15 law enforcement agencies in the state under subsection (a)
16 of this section.

17
18 (e) This section is repealed effective July 1, 2016.

19
20 **Section 2.** W.S. 7-19-401(a)(xii) is amended to read:

21
22 **7-19-401. Definitions.**

1 (a) For purposes of this act:

2

3 (xii) "This act" means W.S. 7-19-401 through
4 ~~7-19-406~~ 7-19-408.

5

6 **Section 3.**

7

8 (a) There is appropriated from the general fund to
9 the attorney general for the period beginning April 1, 2015
10 and ending June 30, 2016, a one-time appropriation of
11 eighty thousand dollars (\$80,000.00) to implement the
12 purposes of this act.

13

14 (b) The attorney general is authorized one (1) at-
15 will employee contract position for the period beginning
16 April 1, 2015 and ending June 30, 2016 to implement W.S.
17 7-19-407(b) and 7-19-408(a) and (d) created by section 1 of
18 this act.

19

20 **Section 4.** This act is effective April 1, 2015.

21

22 (END)