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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **3761**

03/31/2016 Authored by Clark

The bill was read for the first time and referred to the Committee on Public Safety and Crime Prevention Policy and Finance

1.1 A bill for an act
1.2 relating to public safety; requiring testing of sexual assault examination kits;
1.3 allowing patients to opt out of testing sexual assault examination kits; requiring
1.4 peace officers to participate in recurring sexual assault investigation training;
1.5 amending Minnesota Statutes 2014, section 626.8451, subdivisions 2, 3, 4,
1.6 by adding subdivisions; proposing coding for new law in Minnesota Statutes,
1.7 chapter 299C.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. **[299C.106] SEXUAL ASSAULT EXAMINATION KIT TESTING;**
1.10 **ANNUAL REPORTS.**

1.11 Subdivision 1. **Definitions.** As used in this section, the following terms have the
1.12 meanings given:

1.13 (1) "forensic laboratory" has the meaning given in section 299C.157, subdivision
1.14 1, clause (2);

1.15 (2) "patient" means a person who submits to a sexual assault examination;

1.16 (3) "sexual assault examination kit" is a set of items designed to collect biological
1.17 material from a patient in a sexual assault examination; and

1.18 (4) "untested sexual assault examination kit" means a sexual assault examination kit
1.19 that has been used to collect evidence and:

1.20 (i) has not been submitted to a forensic laboratory for DNA analysis and the patient
1.21 has not signed an affidavit as provided in subdivision 3; or

1.22 (ii) has been submitted to a forensic laboratory for DNA analysis, but the analysis
1.23 has not been completed.

2.1 Subd. 2. **Testing required; DNA database.** (a) Within 60 days of receiving a
 2.2 sexual assault examination kit, a law enforcement agency must submit the kit for testing to
 2.3 a forensic laboratory unless the patient signs an affidavit pursuant to subdivision 3.

2.4 (b) Within 30 days of testing a sexual assault examination kit, a forensic laboratory
 2.5 must submit DNA samples to the Federal Bureau of Investigation's Combined DNA
 2.6 Index System.

2.7 Subd. 3. **Affidavit of patient.** A person who administers a sexual assault
 2.8 examination must:

2.9 (1) explain to the patient that the patient's sexual assault examination kit will be
 2.10 submitted for testing and the DNA collected will be submitted to the Federal Bureau
 2.11 of Investigation's Combined DNA Index System unless the patient signs an affidavit
 2.12 declaring that the patient does not want the kit tested; and

2.13 (2) provide the patient with a copy of an affidavit to bar testing. The superintendent
 2.14 shall create an affidavit form to be used for this purpose.

2.15 Subd. 4. **Annual reports.** (a) By September 1 of each year, the director of the
 2.16 bureau's forensic science division, each executive director of a publicly funded forensic
 2.17 laboratory that tests sexual assault examination kits, and each sheriff and chief of police
 2.18 must prepare and submit a written report to the superintendent that identifies the number
 2.19 of untested sexual assault examination kits in the possession of the official's agency
 2.20 or department. The report must be in a form prescribed by the superintendent. At a
 2.21 minimum, each agency must identify each untested sexual assault examination kit by the
 2.22 date the evidence was collected and provide the reasons why each untested sexual assault
 2.23 examination kit has not been tested.

2.24 (b) Beginning in 2016, by December 1 the superintendent must submit a report
 2.25 to the majority leader of the senate, the speaker of the house, and the Office of the
 2.26 Attorney General identifying, by agency and date collected, each untested sexual assault
 2.27 examination kit disclosed in the reports required under paragraph (a). The report must
 2.28 also provide a detailed plan to resolve any backlog of untested sexual assault examination
 2.29 kits held by the bureau and other agencies or departments.

2.30 Sec. 2. Minnesota Statutes 2014, section 626.8451, is amended by adding a subdivision
 2.31 to read:

2.32 Subd. 1b. **Training course; sexual assault.** The board shall prepare a training
 2.33 course to educate peace officers in the best practices in responding to and investigating
 2.34 sexual assaults. In preparing the training course, the board shall consult with the Bureau
 2.35 of Criminal Apprehension, the Minnesota Chiefs of Police Association, the Minnesota

3.1 Sheriffs' Association, the Minnesota County Attorneys Association, a nonprofit foundation
3.2 formed to combat sexual assaults, and two representatives of victims advocacy groups
3.3 selected by the governor. The board shall update the training course at least every three
3.4 years.

3.5 Sec. 3. Minnesota Statutes 2014, section 626.8451, subdivision 2, is amended to read:

3.6 Subd. 2. **Preservice training requirement.** An individual may not be licensed as
3.7 a peace officer unless the individual has received the training described in ~~subdivision~~
3.8 subdivisions 1 and 1b. An individual is not eligible to take the peace officer licensing
3.9 examination after August 1, 1994, unless the individual has received the training described
3.10 in subdivision 1a.

3.11 Sec. 4. Minnesota Statutes 2014, section 626.8451, subdivision 3, is amended to read:

3.12 Subd. 3. **In-service training; board requirements.** The board must provide to chief
3.13 law enforcement officers instructional materials patterned after the materials developed by
3.14 the board under subdivisions 1 ~~and 1a~~ to 1b. These materials must meet board requirements
3.15 for continuing education credit and be updated periodically as the board considers
3.16 appropriate. The board must also seek funding for an educational conference to inform and
3.17 sensitize chief law enforcement officers and other interested persons to the law enforcement
3.18 issues associated with bias crimes and crimes of violence. If funding is obtained, the board
3.19 may sponsor the educational conference on its own or with other public or private entities.

3.20 Sec. 5. Minnesota Statutes 2014, section 626.8451, subdivision 4, is amended to read:

3.21 Subd. 4. **In-service training; chief law enforcement officer requirements.** A
3.22 chief law enforcement officer must inform all peace officers within the officer's agency of
3.23 (1) the requirements of section 626.5531, (2) the availability of the instructional materials
3.24 provided by the board under subdivision 3, ~~and~~ (3) the availability of continuing education
3.25 credit for the completion of these materials, and (4) the compulsory training requirement
3.26 in subdivision 5. The chief law enforcement officer must also encourage these peace
3.27 officers to review or complete the materials.

3.28 Sec. 6. Minnesota Statutes 2014, section 626.8451, is amended by adding a subdivision
3.29 to read:

3.30 Subd. 5. **In-service training; peace officer requirements.** The chief law
3.31 enforcement officer of every state and local law enforcement agency shall provide
3.32 in-service training in sexual assault response and investigation to every peace officer

4.1 and part-time peace officer employed by the agency whom the chief law enforcement
4.2 officer determines may be called upon to respond to or investigate a sexual assault. The
4.3 training shall comply with learning objectives developed and approved by the board under
4.4 subdivision 1b and shall consist of at least four hours of classroom training every five years.