

ASSEMBLY BILL NO. 176—ASSEMBLYMEN YEAGER; BENITEZ-
THOMPSON, KRASNER AND MONROE-MORENO

FEBRUARY 18, 2019

JOINT SPONSOR: SENATOR CANNIZZARO

Referred to Committee on Judiciary

SUMMARY—Enacts the Sexual Assault Survivors’ Bill of Rights.
(BDR 14-87)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to crimes; enacting the Sexual Assault Survivors’ Bill of Rights; defining certain terms relating to victims of sexual assault; creating the Advisory Committee on the Rights of Survivors of Sexual Assault; prescribing the membership and duties of the Advisory Committee; requiring certain information to be provided to a victim of sexual assault; revising certain provisions relating to sexual assault forensic analysis kits; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides under certain circumstances that a person who: (1) subjects another person or child under the age of 14 years to sexual penetration; or (2) forces another person or child under the age of 14 years to make a sexual penetration on himself or herself or another, or on a beast, is guilty of sexual assault. (NRS 200.366) **Sections 2-29** of this bill enact the Sexual Assault Survivors’ Bill of Rights. **Section 15** of this bill defines the term “survivor” for purposes of the Bill of Rights, and certain other purposes, as a person who is the victim of a sexual assault or certain other persons if the victim is incompetent, deceased or a minor.

Section 16 of this bill provides that the Sexual Assault Survivors’ Bill of Rights attaches when a survivor is subject to: (1) a forensic medical examination; or (2) an interview by a law enforcement official or prosecutor. **Section 17** of this bill grants a survivor the right to consult with: (1) a sexual assault victims’ advocate; or (2) an



attendant of the survivor's choosing for support during a sexual assault forensic medical examination and an interview with a law enforcement official or prosecutor. Further, **section 18** of this bill provides: (1) that a survivor retains the rights set forth in **section 17** even if the survivor has waived such rights during a previous examination or interview; and (2) that, except with the consent of the survivor, the fact that the survivor waived the right to consult with a sexual assault victims' advocate is not admissible into evidence for any purpose.

Section 19 of this bill outlines a survivor's rights before and during a forensic medical examination and prescribe certain duties required of the medical provider. **Section 20** of this bill makes conforming changes to reflect a survivor's rights during an interview with a law enforcement official or prosecutor, and such an interviewer's duties. **Section 21** of this bill affords a survivor the right to counsel under certain circumstances.

Sections 22-24 of this bill set forth procedures regarding the collection and analysis of forensic evidence kits. **Section 25** of this bill prohibits a defendant from challenging his or her conviction based on certain persons not adhering to such collection and analysis timelines. **Section 26** of this bill provides that forensic evidence from the sexual assault may not be used to prosecute a survivor under certain circumstances. **Section 27** of this bill requires the Office of the Attorney General to develop and make available certain information for a survivor regarding his or her sexual assault.

Section 29 of this bill provides a survivor with certain rights regarding the legal process, such as being reasonably protected from the defendant, being allowed to wait at trial in a separate area from the defendant, authorizing the survivor to make a survivor impact statement under certain circumstances and prohibiting the requirement of an examination by polygraph of the survivor before he or she is authorized to participate in certain legal processes.

Section 32 of this bill creates the Advisory Committee on Rights of Survivors of Sexual Assault, and **section 33** of this bill prescribes the duties of the Advisory Committee as related to sexual assault forensic evidence kits, sexual assault victims' advocates and the implementation of the rights guaranteed by the Sexual Assault Survivors' Bill of Rights.

Existing law requires a prosecutor to inform an alleged victim of sexual assault of the final disposition of the case if the case goes to trial. (NRS 200.3784) **Section 35** of this bill additionally requires the prosecutor to provide, upon the written request of the alleged victim, the pretrial disposition of the case and information supplied by the sex offender registry regarding the defendant, if applicable.

Existing law sets forth certain requirements pertaining to the collection and analysis of sexual assault forensic evidence kits. (NRS 200.3786) **Section 36** of this bill requires: (1) a medical provider to notify a law enforcement agency within 72 hours of conducting a forensic medical examination; and (2) the law enforcement agency to take possession of such a kit within 5 days of such notification.

Existing law requires the State to implement a statewide tracking system for sexual assault forensic evidence kits and to submit an annual report to the Legislature regarding certain data collected by forensic laboratories analyzing such kits. (NRS 200.3786, 200.3788) **Section 36** eliminates the requirement to make such a report. **Section 37** of this bill requires that the survivor be allowed to track or receive certain updates via Internet or telephone.

Section 40.5 of this bill makes an appropriation of \$150,000 for each fiscal year to the Office of the Attorney General for the purpose of awarding grants to organizations that will recruit and train persons to serve as sexual assault victims' advocates.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 14 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 34, inclusive, of this act.

Sec. 2. Sections 2 to 29, inclusive, of this act may be cited as the Sexual Assault Survivors' Bill of Rights.

Sec. 3. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 15, inclusive, of this act have the meaning ascribed to them in those sections.*

Sec. 4. *"CODIS" has the meaning ascribed to it in NRS 176.09113.*

Sec. 5. *"DNA profile" has the meaning ascribed to it in NRS 176.09115.*

Sec. 6. *"Forensic laboratory" has the meaning ascribed to it in NRS 176.09117.*

Sec. 7. *"Forensic medical examination" has the meaning ascribed to it in NRS 217.300.*

Sec. 8. *"Genetic marker analysis" has the meaning ascribed to it in NRS 176.09118.*

Sec. 9. *"Law enforcement agency" means any agency, office or bureau of this State or a political subdivision of this State, the primary duty of which is to enforce the law.*

Sec. 10. 1. *"Law enforcement official" means:*

(a) Any person employed by a law enforcement agency; or
(b) Any person employed by a public school, private school or institution of higher education whose primary duty is to enforce the law.

2. *For purposes of this section:*

(a) "Institution of higher education" has the meaning ascribed to it in NRS 179D.045.

(b) "Private school" means a nonprofit private elementary or secondary educational institution that is licensed in this State.

(c) "Public school" has the meaning ascribed to it in NRS 388.127.

Sec. 11. *"Medical provider" means any provider of health care, as defined in NRS 629.031, hospital, emergency medical facility or other facility conducting a forensic medical examination of a survivor.*

Sec. 12. (Deleted by amendment.)

Sec. 13. *"Sexual assault forensic evidence kit" has the meaning ascribed to it in NRS 200.364.*



1 **Sec. 13.5.** *"Sexual assault victims' advocate" means a*
2 *victims' advocate or other trained person who is employed or*
3 *volunteers at an established center for the support of survivors.*

4 **Sec. 14.** *"State DNA Database" means the database*
5 *established pursuant to NRS 176.09121.*

6 **Sec. 15.** *"Survivor" means a person who is a victim of sexual*
7 *assault, as defined in NRS 217.280 or, if the victim is incompetent,*
8 *deceased or a minor, the parent, guardian, spouse, legal*
9 *representative or other person related to the victim within the*
10 *second degree of consanguinity or affinity, unless such person is*
11 *the defendant or accused or is convicted of the sexual assault.*

12 **Sec. 16. 1.** *The rights provided to a survivor pursuant to the*
13 *Sexual Assault Survivors' Bill of Rights attach whenever the*
14 *survivor is subject to:*

15 *(a) A forensic medical examination; or*

16 *(b) An interview by a law enforcement official or prosecutor.*

17 **2.** *A survivor retains the rights provided by the Sexual*
18 *Assault Survivors' Bill of Rights at all times, regardless of whether*
19 *the survivor:*

20 *(a) Agrees to participate in the legal or criminal justice system;*

21 *(b) Agrees to speak to a law enforcement official or*
22 *prosecutor; or*

23 *(c) Consents to a forensic medical examination.*

24 **Sec. 17. 1.** *A survivor has the right to consult with a sexual*
25 *assault victims' advocate during:*

26 *(a) Any forensic medical examination; and*

27 *(b) Any interview by a law enforcement official or prosecutor.*

28 **2.** *A survivor has the right to designate an attendant to*
29 *provide support during:*

30 *(a) Any forensic medical examination; and*

31 *(b) Any interview by a law enforcement official or prosecutor.*

32 **Sec. 18. 1.** *A survivor retains the rights pursuant to section*
33 *17 of this act even if the survivor has waived such rights during a*
34 *previous examination or interview.*

35 **2.** *Except with the consent of the survivor, the fact that the*
36 *survivor waived the right to consult with a sexual assault victims'*
37 *advocate pursuant to section 17 of this act is not admissible into*
38 *evidence for any purpose.*

39 **Sec. 19. 1.** *If a survivor requests a consultation with a*
40 *sexual assault victims' advocate or an attendant to provide support*
41 *to the survivor pursuant to section 17 of this act, the medical*
42 *provider shall summon the sexual assault victims' advocate or*
43 *attendant before the commencement of the forensic medical*
44 *examination.*



2. If a sexual assault victims' advocate or an attendant to provide support to the survivor pursuant to section 17 of this act cannot be summoned in a timely manner, the medical provider shall inform the survivor of the ramifications of delaying the forensic medical examination.

3. A survivor must not be required to pay any expense related to a forensic medical examination pursuant to NRS 217.300.

4. After the forensic medical examination, the survivor has the right to use a shower apparatus at no cost, unless a facility which includes a shower apparatus is not available.

5. Before a medical provider commences a forensic medical examination, the medical provider shall inform the survivor of his or her rights pursuant to the Sexual Assault Survivors' Bill of Rights and other relevant law by presenting a document developed by the Office of the Attorney General pursuant to section 27 of this act.

6. The person who presents to the survivor the document developed by the Office of the Attorney General pursuant to section 27 of this act shall sign a written acknowledgment indicating that the person presented the document to the survivor. The written acknowledgment must be retained in the case file of the survivor.

Sec. 20. 1. If a survivor exercises his or her right to consult with a sexual assault victims' advocate during an interview pursuant to section 17 of this act, the law enforcement official or prosecutor conducting the interview, as applicable, shall summon the sexual assault victims' advocate before the commencement of the interview, unless no sexual assault victims' advocate can be summoned in a timely manner.

2. A survivor has the right to designate an attendant to provide support of his or her choosing during any interview by a law enforcement official or prosecutor pursuant to section 17 of this act, unless the law enforcement official or prosecutor determines, in his or her good faith, that the presence of the attendant would be detrimental to the purpose of the interview.

3. A survivor has the right to be interviewed by a law enforcement official of the gender of the choosing of the survivor. If no law enforcement official of that gender is available in a reasonably timely manner, the survivor may be interviewed by an available law enforcement official of a different gender only upon the consent of the survivor.

4. A law enforcement official or prosecutor shall not discourage a survivor from receiving a forensic medical examination.



5. Before commencing an interview with a survivor, the law enforcement official or prosecutor conducting the interview shall inform the survivor of his or her rights pursuant to the Sexual Assault Survivors' Bill of Rights and other relevant law.

6. Any information conveyed by the law enforcement official or prosecutor pursuant to subsection 5 must be conveyed to the survivor by presenting a document developed by the Office of the Attorney General pursuant to section 27 of this act.

7. The person who presents to the survivor the document developed by the Office of the Attorney General pursuant to section 27 of this act shall sign a written acknowledgment indicating that the person presented the document to the survivor. The written acknowledgment must be retained in the case file of the survivor.

Sec. 21. 1. A survivor retains the right to have counsel present during any forensic medical examination, interview, investigation or other interaction with any representative of the legal or criminal justice system within this State pursuant to sections 16 to 20, inclusive, of this act.

2. The treatment of the survivor must not be affected or altered in any way as a result of the decision of the survivor to exercise his or her right to have counsel present during any forensic medical examination, interview, investigation or other interaction with the legal or criminal justice systems within this State.

Sec. 22. 1. A survivor has the right to prompt genetic marker analysis of a sexual assault forensic evidence kit pursuant to NRS 200.3786.

2. A sexual assault forensic evidence kit must be transported to a forensic laboratory and analyzed pursuant to NRS 200.3786, unless the survivor requests, in writing at any time prior to such analysis, for the forensic laboratory to defer analysis of the sexual assault forensic evidence kit.

3. Biological evidence, including, without limitation, a sexual assault forensic evidence kit, secured in connection with the investigation or prosecution of a criminal case must be preserved and stored in accordance with the provisions of this subsection and NRS 176.0912. A sexual assault forensic evidence kit that is in the custody of an agency of criminal justice must be retained for:

(a) If the sexual assault forensic evidence kit is associated with an uncharged or unsolved sexual assault, at least 50 years.

(b) If the sexual assault forensic evidence kit is associated with an unreported or anonymous sexual assault, at least 20 years.



4. If a survivor has requested to defer analysis pursuant to subsection 2, the survivor may request that the forensic laboratory analyze the sexual assault forensic evidence kit at any later date before the expiration of the retention period pursuant to subsection 3.

5. A survivor has the right to the information regarding the timeline of the genetic marker analysis of sexual assault forensic evidence kits pursuant to NRS 200.3786.

Sec. 23. Upon the request of a survivor, he or she has the right to be informed of:

1. The results of the genetic marker analysis of the sexual assault forensic evidence kit of the survivor;

2. Whether the analysis yielded a DNA profile; and

3. Whether the analysis yielded the DNA profile of the defendant or person accused or convicted of a crime against the survivor or a person already in CODIS.

Sec. 24. The failure of a law enforcement agency to take possession of a sexual assault forensic evidence kit pursuant to the Sexual Assault Survivors' Bill of Rights, or the failure of the law enforcement agency to submit such evidence for genetic marker analysis within the timeline prescribed pursuant to the Bill of Rights, does not alter:

1. The authority of a law enforcement agency to take possession of that evidence or to submit that evidence to a forensic laboratory; and

2. The authority of the forensic laboratory to accept and analyze the evidence or to upload an eligible DNA profile obtained from such evidence to CODIS or the State DNA Database.

Sec. 25. 1. A defendant or person accused or convicted of a crime against a survivor does not have standing to seek to have his or her conviction or sentence set aside for any failure by a medical provider, law enforcement agency, forensic laboratory or other relevant entity to comply with the timing requirements of the Sexual Assault Survivors' Bill of Rights.

2. Failure by a medical provider, law enforcement agency, forensic laboratory or other relevant entity to comply with the requirements of the Sexual Assault Survivors' Bill of Rights does not constitute grounds for challenging the validity of a match or any information in the State DNA Database during any criminal or civil proceeding, and any evidence of such a match or any information in the State DNA Database must not be excluded by a court on such grounds.

Sec. 26. Forensic evidence from a sexual assault may not be used:

1. To prosecute a survivor for any:



(a) *Misdemeanor; or*

(b) *Offense related to a controlled substance.*

2. *As a basis to search for further evidence of any unrelated misdemeanor or any offense related to a controlled substance that may have been committed by the survivor.*

Sec. 27. 1. The Office of the Attorney General shall:

(a) *Develop a document that explains the rights of a survivor pursuant to the Sexual Assault Survivors' Bill of Rights and other relevant law; and*

(b) *Make the document available to medical providers, law enforcement officials and prosecutors.*

2. *The document must be in clear language that is comprehensible to a person proficient in English at the reading level of a fifth grader, accessible to persons with visual disabilities and available in all major languages of this State.*

3. *The document must include, without limitation:*

(a) *A clear statement that the survivor is not required to participate in the criminal justice system or to receive a forensic medical examination in order to retain the rights provided by the Sexual Assault Survivors' Bill of Rights and other relevant law;*

(b) *Means of contacting, by telephone or Internet, nearby sexual assault victims' advocates and centers for support for victims of sexual assault;*

(c) *Information about the availability of temporary and extended orders of protection pursuant to NRS 200.378;*

(d) *Instructions for requesting the results of the genetic marker analysis of the sexual assault forensic evidence kit of the survivor;*

(e) *Information concerning state and federal funds for compensation for medical and other costs associated with the sexual assault; and*

(f) *Information concerning any municipal, state or federal right to restitution for survivors in the event of a criminal trial.*

Sec. 28. 1. Except as otherwise provided in this subsection, a law enforcement agency shall, upon written request by the survivor, furnish within 1 month, free, complete and unaltered copies of all reports of the law enforcement agency concerning the sexual assault, regardless of whether the report has been closed by the law enforcement agency. A law enforcement agency may, as appropriate, redact personal identifying information from any reports provided pursuant to this subsection. As used in this section, "personal identifying information" has the meaning ascribed to it in NRS 205.4617.



2. A prosecutor shall, upon written request of a survivor, provide certain information to the survivor pursuant to NRS 200.3784.

3. Each forensic laboratory shall submit the report concerning the status of sexual assault forensic evidence kits annually pursuant to NRS 200.3786.

Sec. 29. 1. In addition to any other right provided by law, a survivor has the right:

(a) In any civil or criminal case related to a sexual assault, to be reasonably protected from the defendant and persons acting on behalf of the defendant.

(b) To be free from intimidation, harassment and abuse.

(c) To be treated with fairness and respect for his or her privacy and dignity.

(d) To be heard through a victim impact statement at any proceeding involving any plea, sentencing, postconviction decision or any other proceeding where the rights of the survivor are at issue.

2. A survivor must not be required to submit to an examination by polygraph as a prerequisite to filing an accusatory pleading or participating in any part of the criminal justice system.

3. A court shall make reasonable efforts to provide the survivor and the family, friends and witnesses of the survivor with a secure waiting area or room that is separate from:

(a) The waiting area of the defendant and the family, friends, witnesses and attorneys of the defendant; and

(b) The office of the prosecutor, if applicable.

Sec. 30. (Deleted by amendment.)

Sec. 31. As used in sections 31 to 34, inclusive, of this act, "Advisory Committee" means the Advisory Committee on Rights of Survivors of Sexual Assault.

Sec. 32. 1. There is hereby created the Advisory Committee on Rights of Survivors of Sexual Assault.

2. The Advisory Committee consists of:

(a) The Attorney General;

(b) The Director of the Department of Corrections;

(c) One member who is a law enforcement official working for a local law enforcement agency, appointed by the Nevada Sheriffs' and Chiefs' Association;

(d) One member who is an attorney, appointed by the governing body of the State Bar of Nevada; and

(e) The following members appointed by the Attorney General:

(1) One member who is a survivor and a citizen or lawful resident of this State;



(2) One member who is a representative of an organization supporting the rights of survivors;

(3) One member who is a representative of a center of support for victims of sexual assault;

(4) One member who is a representative of a forensic laboratory;

(5) One member who is a representative of a university, state college or community college within the Nevada System of Higher Education whose duties of his or her occupation include direct services to victims of sexual assault and whose employer is not under investigation by the United States Department of Education for an alleged violation of 20 U.S.C. § 1092 or Title IX of the Education Amendments Act of 1972, 20 U.S.C. §§ 1681 et seq.;

(6) One member who is a representative of an organization that provides services, education or outreach to minority communities;

(7) One member who is a representative of an organization that provides services, education or outreach to lesbian, gay, bisexual, transgender and questioning persons; and

(8) One member who is a nurse examiner who specializes in forensic medical examinations for sexual assault.

3. The Attorney General may appoint not more than three other persons to the Advisory Committee. The total membership of the Advisory Committee must not exceed 15 members.

4. If any organization listed in subsection 2 ceases to exist, the appointment required pursuant to that subsection must be made by the association's successor in interest or, if there is no successor in interest, by the Attorney General.

5. Each appointed member serves a term of 2 years. Members may be reappointed for additional terms of 2 years in the same manner as the original appointments. Any vacancy occurring in the membership of the Advisory Committee must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

6. At the first regular meeting of each odd-numbered year, the members of the Advisory Committee shall elect a Chair by majority vote who shall serve until the next Chair is elected.

7. The Advisory Committee shall meet at least once annually at a time and place specified by the Chair and may meet at such further times as deemed necessary by the Chair.

8. A majority of the members of the Advisory Committee constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Advisory Committee.



9. While engaged in the business of the Advisory Committee, to the extent of legislative appropriation, each member of the Advisory Committee is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

10. The Attorney General shall provide the staff necessary to carry out the duties of the Advisory Committee.

Sec. 33. 1. The Advisory Committee shall study practices that are nationally recognized and make recommendations regarding:

(a) Whether a need exists for additional sexual assault victims' advocates for survivors and, if such a need exists, the Advisory Committee shall, in conjunction with centers of support for victims of sexual assault, organizations for advocates of survivors and other relevant programs or organizations, create a plan for how the State can provide additional sexual assault victims' advocates to meet such a need, and determine the cost of such a plan.

(b) Whether the need exists to expand the right of a survivor to a sexual assault victims' advocate beyond the forensic medical examination and with a law enforcement official interview, and if such a need exists, the Advisory Committee shall:

(1) Identify the scope and nature of the need; and

(2) Make recommendations on how to best fill such a need.

(c) Whether a need exists to provide ongoing evaluation of the implementation of the rights of survivors pursuant to the Sexual Assault Survivors' Bill of Rights and, if such a need exists, the Advisory Committee shall:

(1) Identify the scope and nature of the need; and

(2) Make recommendations on how to best fill such a need, legislatively or otherwise.

2. In fulfilling the duties prescribed by subsection 1, the Advisory Committee shall collect:

(a) Data regarding reporting of sexual assaults, arrests relating to sexual assaults, rates of prosecutions relating to sexual assaults, access to victims' services for survivors and any other relevant data necessary relating to sexual assaults for the deliberations and recommendations of the Advisory Committee and, if such data does not exist, the Advisory Committee shall encourage the creation and maintenance of such data; and

(b) Feedback from stakeholders, practitioners and leadership of state and local law enforcement agencies, victims' services, practitioners of forensic science and health care communities to inform the development of best practices for the future, or clinical guidelines regarding the care and treatment of survivors.



3. *In undertaking the duties prescribed by subsection 1, the Advisory Committee may retain independent experts. Such experts may:*

(a) *Request files and records from any law enforcement official. The information obtained from such a request must be kept strictly confidential and reported only as aggregated or anonymized data.*

(b) *Conduct confidential interviews with law enforcement officials, medical providers, sexual assault victims' advocates and other such persons with direct knowledge of the response process for sexual assaults.*

(c) *Provide recommendations to the Advisory Committee.*

4. *On or before September 1 of each even-numbered year, the Advisory Committee shall:*

(a) *Prepare a report that includes the results of the assessments, developments and recommendations pursuant to this section.*

(b) *Submit the report prepared to paragraph (a) to the Director of the Legislative Counsel Bureau for submission to the Legislative Commission.*

Sec. 34. 1. *The Attorney General may apply for and accept any available grants and may accept any bequests, devises, donations or gifts from any public or private source to carry out the provisions of sections 31 to 34, inclusive, of this act.*

2. *Any money received pursuant to this section must be deposited in the Special Account for the Support of the Advisory Committee, which is hereby created in the State General Fund. Interest and income earned on money in the Account must be credited to the Account. Money in the Account may only be used for the support of the Advisory Committee and its activities pursuant to sections 31 to 34, inclusive, of this act.*

Sec. 35. NRS 200.3784 is hereby amended to read as follows:
200.3784 1. ~~[[The]]~~ *Upon written request of the alleged victim, the* prosecuting attorney in any trial brought against a person on a charge of sexual assault shall *timely* inform the alleged victim of ~~[[the]]~~ :

(a) *Any pretrial disposition of the case;*

(b) *The final disposition of the case* ~~[[]]~~ *; and*

(c) *Information from the record of registration pursuant to NRS 179D.151 regarding the defendant, if applicable.*

2. If the defendant is found guilty and the court issues an order or provides a condition of the sentence restricting the ability of the defendant to have contact with the victim or witnesses, the clerk of the court shall:

(a) Keep a record of the order or condition of the sentence; and



(b) Provide a certified copy of the order or condition of the sentence to the victim and other persons named in the order.

Sec. 36. NRS 200.3786 is hereby amended to read as follows:

200.3786 1. *Within 72 hours after conducting a forensic medical examination, a medical provider shall notify the law enforcement agency having jurisdiction over the alleged sexual assault of the victim and the law enforcement agency shall take possession of the sexual assault forensic evidence kit.*

2. *If a law enforcement agency determines it does not have jurisdiction over an alleged sexual assault, the law enforcement agency shall notify the law enforcement agency having proper jurisdiction of such an assault within 5 days after taking possession of the sexual assault forensic evidence kit. After receiving such notice, the law enforcement agency with proper jurisdiction shall take possession of the sexual assault forensic evidence kit.*

3. Except as otherwise provided in this subsection, a law enforcement agency shall, not later than 30 days after receiving notice pursuant to subsection 1 or 2 of a sexual assault forensic evidence kit, submit the sexual assault forensic evidence kit to the applicable forensic laboratory responsible for conducting a genetic marker analysis. The provisions of this subsection do not apply to any noninvestigatory sexual assault forensic evidence kit associated with a victim who has chosen to remain anonymous.

~~[2.]~~ 4. *A law enforcement agency shall, not later than 5 days after receiving notice of a sexual assault forensic evidence kit, assign a criminal complaint number to the evidence.*

5. *Any law enforcement agency that submits a sexual assault forensic evidence kit to a forensic laboratory shall, immediately following such a submission, notify the victim of the information contained in subsections 1, 2 and 3.*

6. A forensic laboratory shall, not later than 120 days after receiving a sexual assault forensic evidence kit from a law enforcement agency, test the sexual assault forensic evidence kit ~~[]~~, *unless the victim requests, in writing, to defer the genetic marker analysis of the sexual assault forensic evidence kit pursuant to section 22 of this act.*

7. Upon completion of a genetic marker analysis, the forensic laboratory shall include ~~the~~ *an eligible* DNA profile obtained from the genetic marker analysis in the State DNA Database and CODIS.

~~[3.— Each forensic laboratory that receives a sexual assault forensic evidence kit from a law enforcement agency shall, on or before January 31 of each year, submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature, if the Legislature is in session, or to the Legislative Commission, if the~~



~~Legislature is not in session. If the Legislature is in session, the Director shall ensure that each member of the Assembly and Senate Standing Committees on Judiciary receives a copy of the report. The report must contain:~~

~~—(a) With regard to any sexual assault forensic evidence kit received by the forensic laboratory before January 1, 2015:~~

~~—(1) The total number of such sexual assault forensic evidence kits tested during the immediately preceding calendar year; and~~

~~—(2) The total number of such sexual assault forensic evidence kits that have not been tested.~~

~~—(b) With regard to any sexual assault forensic evidence kit received by the forensic laboratory on or after January 1, 2015:~~

~~—(1) The total number of such sexual assault forensic evidence kits tested during the immediately preceding calendar year and, for each such sexual assault forensic evidence kit, the date on which:~~

~~—(I) The forensic evidence was obtained from a forensic medical examination;~~

~~—(II) The sexual assault forensic evidence kit was submitted to the forensic laboratory; and~~

~~—(III) The DNA profile obtained from the genetic marker analysis was included in the State DNA Database and CODIS.~~

~~—(2) The total number of such sexual assault forensic evidence kits that have not been tested and, for each such sexual assault forensic evidence kit, the date on which:~~

~~—(I) The forensic evidence was obtained from a forensic medical examination; and~~

~~—(II) The sexual assault forensic evidence kit was submitted to the forensic laboratory.~~

~~4.] 8. As used in this section:~~

~~(a) "CODIS" has the meaning ascribed to it in NRS 176.09113.~~

~~(b) "State DNA Database" has the meaning ascribed to it in NRS 176.09119.~~

Sec. 37. NRS 200.3788 is hereby amended to read as follows:

200.3788 1. A statewide program to track sexual assault forensic evidence kits must be established in this State. The Attorney General shall, pursuant to the recommendation of the Sexual Assault Kit Working Group, designate a department or division of the Executive Department of State Government to establish the program. The designated department or division may contract with any appropriate public or private agency, organization or institution to carry out the provisions of this section.

2. The program to track sexual assault forensic evidence kits must:

(a) Track the location and status of sexual assault forensic evidence kits, including, without limitation, the initial forensic



1 medical examination, receipt by a law enforcement agency and
2 receipt and genetic marker analysis at a forensic laboratory.

3 (b) Allow providers of health care who perform forensic medical
4 examinations, law enforcement agencies, prosecutors, forensic
5 laboratories and any other entities having sexual assault forensic
6 evidence kits in their custody to track the status and location of
7 sexual assault forensic evidence kits.

8 (c) Allow a victim of sexual assault to anonymously track or
9 receive , *by telephone or on an Internet website*, updates regarding
10 the status and location of his or her sexual assault forensic evidence
11 kit.

12 3. The department or division designated pursuant to
13 subsection 1 shall, on or before January 1 and July 1 of each year,
14 submit to the Governor and the Director of the Legislative Counsel
15 Bureau for transmittal to the Subcommittee to Review DNA of the
16 Advisory Commission on the Administration of Justice and post on
17 the Internet website maintained by the department or division a
18 report concerning the statewide program to track sexual assault
19 forensic evidence kits. The report must include:

20 (a) The number of sexual assault forensic evidence kits in the
21 program in each county.

22 (b) The number of sexual assault forensic evidence kits for
23 which genetic marker analysis has been completed for each county
24 for the last 6 months.

25 (c) The number of sexual assault forensic evidence kits added to
26 the program in each county during the last 6 months.

27 (d) The number of sexual assault forensic evidence kits for
28 which genetic marker analysis has been requested but not completed
29 for each county.

30 (e) For this State as a whole and each county, the average and
31 median time between a forensic medical examination and receipt of
32 a sexual assault forensic evidence kit by a forensic laboratory for
33 genetic marker analysis, overall and for the last 6 months.

34 (f) For this State as a whole and each county, the average and
35 median time between receipt of a sexual assault forensic evidence
36 kit by a forensic laboratory and genetic marker analysis, overall and
37 for the last 6 months.

38 (g) The number of sexual assault forensic evidence kits in each
39 county awaiting genetic marker analysis for more than 1 year and 6
40 months after forensic medical examination.

41 4. Each law enforcement agency, prosecutor, forensic
42 laboratory and provider of health care who performs forensic
43 medical examinations in this State shall participate in the statewide
44 program to track sexual assault forensic evidence kits for the
45 purpose of tracking the status of any sexual assault forensic



evidence kits in the custody of the agency, prosecutor, laboratory or provider, or a third party under contract with such agency, prosecutor, laboratory or provider.

5. Any agency or person who acts pursuant to this section in good faith and without gross negligence is immune from civil liability for those acts.

6. The department or division designated pursuant to subsection 1 may apply for and accept any gift, donation, bequest, grant or other source of money to carry out the provisions of this section.

7. As used in this section, "Sexual Assault Kit Working Group" means the statewide working group led by the Office of the Attorney General to create policies and procedures to address the backlog of sexual assault forensic evidence kits that have not been tested.

Sec. 38. Section 28 of this act is hereby amended to read as follows:

Sec. 28. 1. Except as otherwise provided in this subsection, a law enforcement agency shall, upon written request by the survivor, furnish within 1 month, free, complete and unaltered copies of all reports of the law enforcement agency concerning the sexual assault, regardless of whether the report has been closed by the law enforcement agency. A law enforcement agency may, as appropriate, redact personal identifying information from any reports provided pursuant to this subsection. As used in this section, "personal identifying information" has the meaning ascribed to it in NRS 205.4617.

2. A prosecutor shall, upon written request of a survivor, provide certain information to the survivor pursuant to NRS 200.3784.

3. Each forensic laboratory shall submit the report concerning the status of sexual assault forensic evidence kits annually pursuant to NRS 200.3786.

4. The State shall establish a statewide program to track sexual assault forensic evidence kits pursuant to NRS 200.3788.

Sec. 39. Section 33 of this act is hereby amended to read as follows:

Sec. 33. 1. The Advisory Committee shall study practices that are nationally recognized and make recommendations regarding:

(a) Whether a need exists for additional sexual assault victims' advocates for survivors and, if such a need exists, the Advisory Committee shall, in conjunction with centers of



support for victims of sexual assault, organizations for advocates of survivors and other relevant programs or organizations, create a plan for how the State can provide additional sexual assault victims' advocates to meet such a need, and determine the cost of such a plan.

(b) Whether the need exists to expand the right of a survivor to a sexual assault victims' advocate beyond the forensic medical examination and with a law enforcement official interview, and if such a need exists, the Advisory Committee shall:

- (1) Identify the scope and nature of the need; and
- (2) Make recommendations on how to best fill such a need.

(c) Whether a need exists to provide ongoing evaluation of the implementation of the rights of survivors pursuant to the Sexual Assault Survivors' Bill of Rights and, if such a need exists, the Advisory Committee shall:

- (1) Identify the scope and nature of the need; and
- (2) Make recommendations on how to best fill such a need, legislatively or otherwise.

(d) The effectiveness of the statewide program to track sexual assault forensic evidence kits pursuant to NRS 200.3788.

2. In fulfilling the duties prescribed by subsection 1, the Advisory Committee shall collect:

(a) Data regarding reporting of sexual assaults, arrests relating to sexual assaults, rates of prosecutions relating to sexual assaults, access to victims' services for survivors and any other relevant data necessary relating to sexual assaults for the deliberations and recommendations of the Advisory Committee and, if such data does not exist, the Advisory Committee shall encourage the creation and maintenance of such data; and

(b) Feedback from stakeholders, practitioners and leadership of state and local law enforcement agencies, victims' services, practitioners of forensic science and health care communities to inform the development of best practices for the future, or clinical guidelines regarding the care and treatment of survivors.

3. In undertaking the required duties of the Advisory Committee, the Advisory Committee may retain independent experts. Such experts may:

(a) Request files and records from any law enforcement official. The information obtained from such a request must



be kept strictly confidential and reported only as aggregated or anonymized data.

(b) Conduct confidential interviews with law enforcement officials, medical providers, sexual assault victims' advocates and other such persons with direct knowledge of the response process for sexual assaults.

(c) Provide recommendations to the Advisory Committee.

4. On or before September 1 of each even-numbered year, the Advisory Committee shall:

(a) Produce a report that includes the results of the assessments, developments and recommendations pursuant to subsections 1 and 2.

(b) Submit the report prepared to paragraph (a) to the Director of the Legislative Counsel Bureau for submission to the Legislative Commission.

Sec. 40. (Deleted by amendment.)

Sec. 40.5. 1. There is hereby appropriated from the State General Fund to the Office of the Attorney General for the purpose of awarding grants of money to organizations that will use the grants to recruit and train persons to serve as sexual assault victims' advocates the following sums:

For the Fiscal Year 2019-2020..... \$150,000

For the Fiscal Year 2020-2021..... \$150,000

2. The Office of the Attorney General may not use more than 10 percent of the money appropriated by subsection 1 to administer the grant program established by this section.

Sec. 41. (Deleted by amendment.)

Sec. 41.5. Any balance of the sums appropriated by section 40.5 of this act remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriations are made or any entity to which money from the appropriations is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2020, and September 17, 2021, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2020, and September 17, 2021, respectively.

Sec. 42. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 43. 1. This section and sections 40.5 and 41.5 of this act become effective on July 1, 2019.



1 2. Sections 1 to 36, inclusive, and 42 of this act become
2 effective:

3 (a) Upon passage and approval for the purpose of adopting
4 regulations and performing any other preparatory administrative
5 tasks that are necessary to carry out the provisions of this act; and

6 (b) On January 1, 2020, for all other purposes.

7 3. Sections 37, 38 and 39 of this act become effective on
8 January 1, 2021.

