
A BILL FOR AN ACT

RELATING TO SEXUAL ASSAULT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that health care
2 personnel use a sexual assault evidence collection kit, commonly
3 referred to as a rape kit, to collect and preserve physical
4 evidence, including DNA, after an alleged sexual assault to help
5 identify an assailant or eliminate a suspect. Unlike Hawaii,
6 twenty-seven states already have laws regarding sexual assault
7 victims, forensic medical examinations, and the collection of
8 forensic evidence using a rape kit. These laws vary from
9 requiring training of medical staff conducting forensic medical
10 examinations of sexual assault victims to establishing rape kit
11 evidence collection and analysis timelines.

12 The purpose of this Act is to improve the State's ability
13 to hold perpetrators accountable and ensure responsive and
14 effective criminal justice practices through the establishment
15 of the statewide sexual response system, county sexual assault
16 response teams, and sexual assault victim examination protocols,
17 including time frames pertaining to the collection, submittal,
18 and analysis of forensic medical evidence.



1 SECTION 2. Chapter 28, Hawaii Revised Statutes, is amended
2 by adding a new part to be appropriately designated and to read
3 as follows:

4 **"PART . STATEWIDE SEXUAL ASSAULT VICTIM RESPONSE**

5 **§28-A Definitions.** As used in this part, unless the
6 context clearly indicates otherwise:

7 "Department" means the department of the attorney general.

8 "Response team" means a county sexual assault response team
9 established pursuant to section 28-C.

10 "Sexual assault evidence collection kit" means a set of
11 items used by health care providers to gather and preserve
12 physical evidence following an allegation of sexual assault.

13 **§28-B Statewide sexual assault response system;**

14 **establishment; purpose.** (a) There is established within the
15 department a statewide sexual assault response system to improve
16 the statewide response to victims of criminal sexual assault
17 under sections 707-730, 707-731, 707-732, 707-733, and
18 707-733.6.

19 (b) The purpose of the statewide sexual assault response
20 system shall be to develop and coordinate a statewide response



1 to victims of sexual assault, deployed through the county sexual
2 assault response teams established pursuant to section 28-C.

3 **§28-C County sexual assault response teams; established;**

4 **composition; terms; duties.** (a) The prosecuting attorney for

5 each county shall organize a county sexual assault response

6 team, which shall meet at least four times per year and consist

7 of the following members:

8 (1) A representative of the prosecuting attorney's office;

9 (2) A representative of a prosecution-based victim

10 assistance program or unit;

11 (3) A sexual assault forensic expert;

12 (4) A representative of a local law enforcement agency;

13 and

14 (5) A representative of a nonprofit agency or program that

15 offers safety, planning, counseling, support, or

16 advocacy to victims of sexual assault.

17 (b) The members of the response teams shall serve for an

18 unlimited number of two-year terms.

19 (c) The members of the response team shall serve without

20 compensation but shall be reimbursed for necessary expenses,

21 including travel expenses.



1 (d) The duties of each county sexual assault response team
2 shall be to:

3 (1) Implement the statewide response to victims of sexual
4 assault pursuant to section 28-B; and

5 (2) Adopt administrative rules or seek statutory
6 amendments to implement additional protocols and
7 policies as necessary to improve the statewide
8 response to victims of sexual assault.

9 **§28-D Statewide response to victims of sexual assault.**

10 The statewide response to victims of sexual assault shall
11 include but not be limited to the forensic medical examination
12 procedures under chapter 321, part ; and the sexual assault
13 evidence collection, submittal, and analysis procedures under
14 section 844D- . The statewide response to victims of sexual
15 assault shall also include plans for procurement, distribution,
16 and administration of sexual assault evidence collection kits to
17 health care providers."

18 SECTION 3. Chapter 321, Hawaii Revised Statutes, is
19 amended by adding a new part to be appropriately designated and
20 to read as follows:

21 **"PART . MEDICAL EXAMINATION OF SEXUAL ASSAULT VICTIM**



1 **§321- Forensic medical examination of a sexual assault**
2 **victim; evidence disclosure and written consent.** (a) A health
3 care provider shall inform a sexual assault victim or the parent
4 or guardian of a minor or incapacitated sexual assault victim of
5 the availability of a forensic medical examination to obtain
6 sexual assault evidence. All forensic medical examination
7 results are confidential and shall only be released to the
8 department of health with written consent of one of the
9 following:

- 10 (1) The victim, if over the age of fourteen;
- 11 (2) A parent or guardian or an employee of child welfare
12 services if the victim is fourteen years of age or
13 under;
- 14 (3) A personal representative if the person is deceased;
- 15 (4) Any legal agent if the victim is incapacitated; or
- 16 (5) A law enforcement officer investigating the crime.
- 17 (b) A health care provider that has not obtained written
18 consent to release forensic medical results shall inform the
19 sexual assault victim that any sexual assault evidence gleaned
20 from the forensic medical examination shall be stored for a
21 minimum of one year before the evidence is destroyed."



1 SECTION 4. Chapter 844D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 **"§844D- Sexual assault evidence collection, submittal,**

5 **and analysis.** (a) Within seventy-two hours of receipt of
6 written consent, pursuant to section 321- , the health care
7 provider shall submit evidence collected as a result of the
8 forensic medical examination to the department for evaluation of
9 the presence of a body fluid, cellular material, or DNA.

10 (b) Within fourteen days of receipt of evidence collected
11 as a result of the forensic medical examination, the department
12 shall submit the evidence for evaluation of the presence of a
13 body fluid, cellular material, or DNA to the designated entity,
14 as provided in section 844D-23.

15 (c) Within ninety days of receipt of evidence collected as
16 a result of the forensic medical examination, the department or
17 the department's designated entity, as provided in section
18 844D-23, shall evaluate the evidence for the presence of a body
19 fluid, cellular material, or DNA.

20 (d) Records derived from the DNA analysis in subsection
21 (c) shall be included in the state DNA database.



1 (e) The failure of the department to take possession of
2 forensic medical examination sexual assault evidence or to
3 submit evidence for analysis within the time prescribed under
4 this section shall not alter the authority of the department to
5 take possession of that evidence or submit that evidence for
6 analysis, or the authority of the department or department's
7 designated entity to analyze the evidence.

8 (f) The failure to comply with the requirements of this
9 section does not constitute grounds in a criminal proceeding for
10 challenging the validity of a database match or of any database
11 information, and any evidence of that DNA record shall not be
12 excluded by a court on those grounds."

13 SECTION 5. There is appropriated out of the general
14 revenues of the State of Hawaii the sum of \$ or so
15 much thereof as may be necessary for fiscal year 2015-2016 and
16 the same sum or so much thereof as may be necessary for fiscal
17 year 2016-2017 for the coordination, establishment, and
18 implementation of the statewide sexual assault response system
19 pursuant to this Act.

20 The sums appropriated shall be expended by the department
21 of the attorney general for the purposes of this Act.



1 SECTION 6. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so
3 much thereof as may be necessary for fiscal year 2015-2016 and
4 the same sum or so much thereof as may be necessary for fiscal
5 year 2016-2017 for the establishment and operation of the county
6 sexual assault response teams.

7 The sums appropriated shall be expended by the counties for
8 the purposes of this Act.

9 SECTION 7. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 8. In codifying the new sections added by section
13 2 of this Act, the revisor of statutes shall substitute
14 appropriate section numbers for the letters used in designating
15 the new sections in this Act.

16 SECTION 9. New statutory material is underscored.

17 SECTION 10. This Act shall take effect upon its approval;
18 provided that sections 5 and 6 of this Act shall be effective on
19 July 1, 2015.



Report Title:

Attorney General; Sexual Assault Response System; Sexual Assault Response Team; Forensic Medical Examination; Sexual Assault Evidence Collection and Analysis; Appropriation

Description:

Establishes the statewide sexual assault response system, sexual assault response teams in each county, and sexual assault victim examination protocols, including time frames pertaining to the collection, submittal, and analysis of forensic medical evidence. Makes appropriations. (SD1)

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