

ASSEMBLY, No. 767

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman BUONO

1 AN ACT concerning sexual assault treatment and supplementing Title
2 26 of the Revised Statutes.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. a. Notwithstanding any law to the contrary, a health care facility
8 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), shall
9 provide treatment to a patient who has been injured during the
10 commission of an alleged act of sexual assault without requiring the
11 patient, or without interfering with the patient's ability, to file formal
12 charges with a law enforcement official.

13 b. The health care facility shall collect and safeguard the sexual
14 assault evidence gathered during the provision of treatment to the
15 patient and maintain it in a locked, secure area. Each item of evidence
16 shall be marked and logged in with a code number corresponding to
17 the patient's medical record. The evidence shall be refrigerated, dried
18 or otherwise stored, as appropriate, to maintain its evidential value,
19 and labeled with the time of collection.

20 c. The evidence collected shall not be opened for inspection,
21 moved or disposed of unless the inspection, move or disposal is
22 authorized in writing by an administrator of the health care facility, a
23 physician with privileges to practice medicine at the health care
24 facility, or a nurse, and:

25 (1) the evidence is surrendered to a law enforcement agency at the
26 written request of the patient, the patient's legal guardian or pursuant
27 to a court order or subpoena; or

28 (2) the evidence is surrendered to the patient upon the written
29 request of the patient or the patient's legal guardian; or

30 (3) 30 days have elapsed from the time the evidence was collected
31 and no request for its surrender has been made.

32 d. At the time of the initial examination, the health care facility
33 shall document that a patient who seeks treatment for injuries suffered
34 during the commission of an alleged act of sexual assault has been
35 offered a copy of the provisions of this act.

1 e. As used in this section: "Sexual assault evidence" shall include
2 slides; cotton swabs used to obtain fluid; fingernail scrapings; saliva;
3 blood and hair samples or other samples from the patient; clothing;
4 weapons; photographs of the patient's injuries; and any other items
5 collected pursuant to the protocol or rules promulgated by the health
6 care facility or an order of a court in the jurisdiction where the alleged
7 act of sexual assault occurred.

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9 2. This act shall take effect 90 days after enactment.

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12 STATEMENT

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14 This bill requires a health care facility to provide treatment to a
15 patient who has been injured during the commission of an alleged act
16 of sexual assault without requiring the patient, or without interfering
17 with the patient's ability, to file formal charges with the police. The
18 health care facility would also be required to safeguard any evidence
19 gathered during the treatment of the patient and to store it in a secure
20 area in order to preserve its evidential value. Under the provisions of
21 the bill, evidence could not be moved, inspected or disposed of
22 without written consent from an administrator, a physician, or nurse
23 and:

24 1. the evidence is surrendered to a law enforcement agency or the
25 patient at the written request of the patient, the patient's legal guardian
26 or pursuant to a court order or subpoena; or

27 2. 30 days have elapsed from the time the evidence is collected and
28 no request for its surrender has been made.

29 Finally, the bill would require that the health care facility document
30 that the patient seeking treatment has been offered a copy of the
31 provisions of this bill.

32 This bill does not impose a new duty, but rather provides for
33 safeguarding the material.

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38 Requires health care facilities to develop standards to maintain and
39 safeguard evidence gathered during the treatment of sexual assault
40 victims.