

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1219

S.P. 410

In Senate, March 30, 2017

An Act To Amend the Laws Governing Forensic Examination Kits

Submitted by the Department of Public Safety pursuant to Joint Rule 204.
Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator ROSEN of Hancock.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 25 MRSA §2915**, as enacted by PL 1999, c. 719, §3 and affected by §11,
3 is amended to read:

4 **§2915. Uniform forensic examination kit for evidence collection in alleged cases of**
5 **sexual assault**

6 **1. Development of uniform forensic examination kit.** The Department of Public
7 Safety shall determine by rule what constitutes a uniform standardized forensic
8 examination kit for evidence collection in alleged cases of ~~gross~~ sexual assault. The rules
9 must define the contents of the kit, instructions for administering the kit and a checklist
10 that examiners must follow and enclose in the completed kit.

11 **2. Use of uniform forensic examination kit.** A licensed hospital or licensed health
12 care practitioner that conducts physical examinations of alleged victims of ~~gross~~ sexual
13 assault shall use the uniform standardized forensic examination kit developed by the
14 Department of Public Safety pursuant to subsection 1. A health care practitioner who
15 conducts physical examinations of alleged victims of ~~gross~~ sexual assault must be trained
16 in the proper evidence collection procedures for conducting a forensic examination.

17 Evidence collection results may not be excluded as evidence in any proceeding before
18 any court of this State as a result of the examiner's failure to use the standardized
19 evidence collection kit or as a result of the examiner's failure to be trained in the proper
20 procedures for the collection of evidence required by this subsection.

21 **3. Furnishing of uniform forensic examination kit.** The Department of Public
22 Safety shall furnish the uniform forensic examination kits to licensed hospitals and
23 licensed health care practitioners that perform forensic examinations of alleged victims of
24 ~~gross~~ sexual assault.

25 **3-A. "Sexual assault" defined.** For the purposes of this section, "sexual assault"
26 means any crime enumerated in Title 17-A, chapter 11.

27 **4. Rules.** Rules adopted pursuant to this section are routine technical rules as
28 defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

29 **Sec. 2. 25 MRSA §3821**, as amended by PL 2007, c. 209, §7, is further amended
30 to read:

31 **§3821. Transportation and storage of forensic examination kits**

32 For the purposes of this section, "sexual assault" means any crime enumerated in
33 Title 17-A, chapter 11.

34 If an alleged victim of ~~gross~~ sexual assault has a forensic examination and has not
35 reported the alleged offense to a law enforcement agency when the examination is
36 complete, the licensed hospital or licensed health care practitioner that completed the
37 forensic examination shall notify the nearest law enforcement agency. That law
38 enforcement agency shall transport the completed kit, identified only by a tracking

1 number assigned by ~~the hospital or health care practitioner~~ the kit manufacturer, to its
2 evidence storage facility. The law enforcement agency shall store the kit for at least 90
3 days from the time of receipt. If during that 90-day period the alleged victim reports the
4 offense to a law enforcement agency, the investigating agency shall take possession of the
5 kit.

6 In the case of a forensic examination performed under Title 24, section 2986,
7 subsection 5, the law enforcement agency must immediately notify the district attorney
8 for the district in which the hospital or health care practitioner is located that such a
9 forensic examination has been performed and a forensic examination kit has been
10 completed under Title 24, section 2986, subsection 5.

11 **Sec. 3. Rulemaking; exemption from Maine Administrative Procedure**

12 **Act.** The Department of Public Safety shall amend its rules implementing the Maine
13 Revised Statutes, Title 25, sections 2915 and 3821 to reflect the changes set forth in this
14 Act; and, notwithstanding Title 5, part 18, or any other provision of law to the contrary,
15 rule amendments adopted in accordance with this section are not subject to the
16 requirements of the Maine Administrative Procedure Act.

17 **Sec. 4. Maine Revised Statutes headnote amended; revision clause.**

18 In the Maine Revised Statutes, Title 25, chapter 407, in the chapter headnote, the words
19 "transportation and storage of forensic examination kits for alleged victims of gross
20 sexual assault" are amended to read "transportation and storage of forensic examination
21 kits for alleged victims of sexual assault" and the Revisor of Statutes shall implement this
22 revision when updating, publishing or republishing the statutes.

23 **SUMMARY**

24 This bill amends laws governing forensic examination kits to provide for the kits to
25 be used for testing in relation to alleged crimes other than gross sexual assault. This bill
26 also provides that rules that have been adopted by the Department of Public Safety to
27 implement the Maine Revised Statutes, Title 25, sections 2915 and 3821 may be amended
28 to reflect the changes set forth in this Act without triggering the requirements set forth in
29 the Maine Administrative Procedure Act.