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Senate Bill 1004 (as introduced 6-12-14)
Sponsor: Senator Bert Johnson
Committee: Judiciary

Date Completed: 8-12-14

CONTENT

The bill would create the "Sexual Assault Victim's Rights Act" to do the following:

- **Require a law enforcement agency investigating a sexual assault to inform the victim about the status of processing the evidence in the case, if the victim requested to be kept informed.**
- **Allow a sexual assault victim to designate another person to receive the requested information.**
- **Require the law enforcement agency to provide the information in a timely manner and advise the victim of significant changes in the information.**
- **Specify rights of a sexual assault victim, including the right to be kept informed of the collection and comparison of an assailant's DNA profile.**

Informing the Victim

The bill would require the law enforcement agency with the primary responsibility for investigating a sexual assault, upon the request of a victim of that assault, to inform the victim of the status of the processing of all evidence collected in the case. The agency could require the victim's request to be in writing.

The law enforcement agency could respond to a victim's request in writing or by e-mail, if an e-mail address were available. The agency would not have to communicate with the victim regarding the status of the processing of crime scene evidence without a specific request from the victim to do so.

A sexual assault victim could designate another person of his or her own choosing to receive the requested information or any notice required under the proposed Act.

The bill also would require the law enforcement agency with the primary responsibility for investigating a sexual assault case to provide information to a victim in a timely manner and, upon the victim's request, advise him or her of any significant changes in the information of which the law enforcement agency was aware. To receive notice, the victim would have to keep the law enforcement agency informed of the name, address, telephone number, and e-mail address of the person to whom the information should be provided, and of any changes in that information.

A person accused or convicted of a crime against the victim would have no standing to object to any failure to comply with the notice requirements. Failure to provide a right or notice to a sexual assault victim could not be used to have the conviction or sentence set aside.

The bill would define "victim" as an individual subjected to a sexual assault offense and, for the purposes of making communications and receiving notices, the victim's designee appointed to receive requested information. "Sexual assault offense" would mean first-, second-, third-, or fourth-degree criminal sexual conduct (CSC) or assault with attempt to commit CSC.

The bill would define "sexual assault case" as a criminal investigation or criminal prosecution to which any of the following applies:

- An individual is reporting that he or she was a victim of a sexual assault offense.
- There is physical evidence (which could include photographic evidence) that a sexual assault offense was committed against any individual.
- There is eyewitness evidence that a sexual assault offense was committed against any individual.

The bill specifies that "law enforcement agency" would include a law enforcement agency of a community college or university, if that agency were responsible for collecting sexual assault evidence.

Victim's Rights

Sexual assault victims would have the following rights under the proposed Act:

- The right to be informed of whether a DNA profile of an assailant was obtained from the processing of evidence in the sexual assault case.
- The right to be informed of whether an assailant's DNA profile had been entered into any data bank designed or intended to be used for the retention or comparison of case evidence.
- The right to be informed of whether there was a match between the DNA profile of an assailant obtained in the case and any DNA profile contained in such a data bank.
- The right to be informed when the sexual assault evidence kit was submitted to the forensic laboratory, when the evidence was compared against any data bank, and the results of the comparison.

The last two rights would not apply if disclosure would impede or compromise an ongoing investigation.

"Sexual assault evidence kit" would mean that term as defined in the Public Health Code, which defines it as a standardized set of equipment and written procedures approved by the Michigan Department of State Police (MSP) that have been designed to be administered to an individual principally for the purpose of gathering evidence of sexual conduct that is the type of evidence offered in court by the MSP's Forensic Science Division for prosecuting a CSC case.

"Forensic laboratory" would mean that term as defined in the Forensic Laboratory Funding Act, which defines it as a laboratory maintained by the MSP or a municipality that meets all of the following criteria:

- Has at least one regularly employed forensic scientist who conducts analyses of controlled substances or androgenic anabolic steroids for criminal justice agencies in criminal justice matters and provides testimony with respect to those analyses.
- Is registered as an analytical laboratory with the U.S. Drug Enforcement Administration for possessing all scheduled controlled substances.

- Has at least one regularly employed forensic scientist who conducts forensic tests other than for controlled substances or androgenic anabolic steroids and provides testimony with respect to those forensic tests.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would require the Michigan State Police or any other law enforcement agency with the primary responsibility for investigating a sexual assault to provide communication, if requested, to a victim or a person designated by a victim, regarding the status of evidence in a case. This provision would result in minimal additional costs to law enforcement agencies, as they currently have victim communication responsibilities – though not as expansive as the bill would require – under the Crime Victim's Rights Act.

Fiscal Analyst: Bruce Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.