**South Carolina General Assembly**

122nd Session, 2017-2018

**H. 4837**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Norrell and J.E. Smith

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Introduced in the House on February 6, 2018

Currently residing in the House Committee on **Judiciary**

Summary: Sexual assault

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/6/2018 House Introduced and read first time ([House Journal‑page 11](file:///h:\hj\20180206.docx))

2/6/2018 House Referred to Committee on **Judiciary** ([House Journal‑page 11](file:///h:\hj\20180206.docx))

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=4837&session=122&summary=B) at the website

**VERSIONS OF THIS BILL**

[2/6/2018](file:///p:\pprever\2017-18\4837_20180206.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 17 TO CHAPTER 3, TITLE 23 SO AS TO PROVIDE FOR THE SUBMISSION OF EVIDENCE OF SEXUAL ASSAULT OR ABUSE TO A SLED FORENSIC LABORATORY FOR ANALYSIS, TO PROVIDE THAT SLED SHALL ISSUE A QUARTERLY REPORT REGARDING THE NUMBER OF SUBMISSIONS IT RECEIVES, AND TO CREATE THE SEXUAL ASSAULT EVIDENCE TRACKING AND REPORTING COMMISSION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 3, Title 23 of the 1976 Code is amended by adding:

“Article 17

Sexual Assault Evidence Submission, Tracking, and Reporting

Section 23‑3‑1500. As contained in this article:

(1) ‘Commission’ means the Sexual Assault Evidence Tracking and Reporting Commission.

(2) ‘SLED’ means the South Carolina State Law Enforcement Division.

(3) ‘Law enforcement agencies’ means local, county, State or federal law enforcement agencies involved in the investigation of sexual assault cases in this State.

(4) ‘Sexual assault evidence’ means evidence collected in connection with a sexual assault investigation, including, but not limited to, evidence collected using SLED Evidence Collection Kits.

Section 23‑3‑1510. Law enforcement agencies that receive sexual assault evidence from the victim of a sexual assault or sexual abuse must submit evidence from the case within ten business days of receipt of the consent to test to a SLED forensic laboratory or a laboratory approved and designated by the chief of SLED. The written report required under Section 23‑3‑1530 shall include the date and time the sexual assault evidence was picked up from the hospital, the date consent to test the sexual assault evidence was given, and the date and time the sexual assault evidence was sent to the laboratory. Sexual assault evidence received by a law enforcement agency within thirty days prior to the effective date of this article shall be submitted pursuant to this article.

Section 23‑3‑1520. (A) All sexual assault evidence submitted pursuant to this article on or after its effective date shall be analyzed within six months after receipt of all necessary evidence and standards by the SLED or other designated laboratory if sufficient staffing and resources are available.

(B) If a consistent DNA profile has been identified by comparing the submitted sexual assault evidence with a known standard from a suspect or with DNA profiles in the combined DNA Index System database, SLED shall notify the investigating law enforcement agency of the results in writing, and SLED shall provide an automatic courtesy copy of the written notification to the appropriate circuit solicitor for tracking and further action, as necessary.

Section 23‑3‑1530. (A) By October 15, 2020, each South Carolina law enforcement agency shall provide written notice to SLED, in a form and manner prescribed by SLED, stating the number of sexual assault cases in the custody of the law enforcement agency that have not been previously submitted to a laboratory for analysis. Within one hundred eighty days after the effective date of this article, appropriate arrangements shall be made between the law enforcement agency and SLED, or a laboratory approved and designated by the chief of SLED, to ensure that all cases that were collected prior to the effective date of this article and are, or were at the time of collection, the subject of a criminal investigation, are submitted to SLED, or a laboratory approved and designated by the chief of SLED.

(B) By February 15, 2020, SLED shall submit to the Governor, the Attorney General, and both houses of the General Assembly a plan for analyzing cases submitted pursuant to this article. The plan shall include, but not be limited to, a timeline for completion of analysis and a summary of the inventory received, as well as requests for funding and resources necessary to meet the established timeline.

(C) Each law enforcement agency must conduct an annual inventory of all sexual assault cases in the custody of the law enforcement agency and provide written notice of its annual findings to the circuit solicitor having jurisdiction to ensure sexual assault cases are being submitted as provided by law.

Section 23‑3‑1540. The failure of a law enforcement agency to submit the sexual assault evidence collected on or after the effective date of this article within ten business days after receipt shall not alter the authority of the law enforcement agency to submit the evidence or the authority of the SLED forensic laboratory or designated laboratory to accept and analyze the evidence or specimen or to maintain or upload the results of genetic marker grouping analysis information into a local, state, or national database in accordance with established protocol.

Section 23‑3‑1550. Each submission of sexual assault evidence submitted for analysis pursuant to this article shall be accompanied by the following signed certification:

‘This evidence is being submitted by (name of investigating law enforcement agency) in connection with a prior or current criminal investigation.’

Section 23‑3‑1560. If SLED receives written confirmation from the investigating law enforcement agency or a circuit solicitor’s office that a DNA record that has been uploaded pursuant to this article into a local, state or national DNA database was not connected to a criminal investigation, the DNA record shall be expunged from the DNA database and SLED shall, by regulation, prescribe procedures to ensure that written confirmation is sent to the submitting law enforcement agency verifying the expungement.

Section 23‑3‑1570. The failure to expunge a DNA record or strictly comply with the provisions of Section 23‑3‑1560 shall not be grounds for challenging the validity of a database match or database information, and evidence based upon or derived from the DNA record may not be excluded by a court.

Section 23‑3‑1580. Beginning January 1, 2020, and each year thereafter, SLED shall publish a quarterly report on its website, indicating a breakdown of the number of sexual assault case submissions from every law enforcement agency.

Section 23‑3‑1590. (A) The Sexual Assault Evidence Tracking and Reporting Commission is created to research and develop a plan to create and implement a statewide mechanism to track and report sexual assault evidence information. The commission shall consist of the following members:

(1) one member of the House of Representatives, appointed by the Speaker of the House of Representatives;

(2) one member of the House of Representatives, appointed by the Minority Leader of the House of Representatives;

(3) one member of the Senate, appointed by the President Pro Tempore of the Senate;

(4) one member of the Senate, appointed by the Minority Leader of the Senate;

(5) the Attorney General, or his designee;

(6) the Chief of SLED, or his designee;

(7) the Director of the South Carolina Sheriff’s Association;

(8) a representative of a statewide organization against sexual assault, appointed by the Speaker of the House of Representatives;

(9) a representative of the South Carolina Solicitor’s Association, appointed by the Minority Leader of the House of Representatives; and

(10) a representative of a statewide organization representing hospitals of this State appointed by the Speaker Pro Tempore of the Senate.

(B) The members appointed to the commission under subsection (A) shall be appointed within sixty days after the effective date of this article.

(C) The first meeting of the commission shall be called by the Chief of SLED, or his designee, no later than thirty days after all the members of the commission have been appointed. At the first meeting, the commission shall elect from its members a chairperson and other officers as it considers necessary or appropriate.

(D) The members of the commission shall serve without compensation.

(E) SLED shall provide administrative and other support to the commission.

(F) The commission shall within one year of its initial meeting:

(1) research options to create a tracking system and develop guidelines and a plan to implement a uniform statewide system to track the location, lab submission status, completion of forensic testing, and storage of sexual assault evidence;

(2) develop guidelines and a plan to implement a system with secure electronic access that allows a victim, or the victim’s designee, to access or receive information about the location, lab submission status, and storage of sexual assault evidence that was gathered from the victim, provided that the disclosure does not impede or compromise an ongoing investigation;

(3) develop guidelines and a plan to safeguard confidentiality and limited disclosure of the information contained in the statewide system;

(4) recommend sources of public and private funding to implement the plans developed under this section;

(5) recommend changes to law or policy required to support the implementation of the plans developed under this section; and

(6) report its findings and recommendations and to submit any and all proposed legislation to the Governor and General Assembly.

(G) The commission shall be dissolved on January 1, 2021.”

SECTION 2. This act takes effect upon approval by the Governor.

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