COMMITTEE REPORT

March 4, 2020

**H. 3309**

Introduced by Reps. Cobb‑Hunter, Thigpen, Henderson‑Myers, Collins, Rose, Dillard, Caskey, Bannister, Norrell and Gilliard

S. Printed 3/4/20--S.

Read the first time May 9, 2019.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3309) to amend the Code of Laws of South Carolina, 1976, by adding Article 15 to Chapter 3, Title 23 so as to provide that the State Law Enforcement Division shall, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting therein the following:

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

“Article 15

Statewide Sexual Assault Kit Tracking System

Section 23‑3‑1300. (A) The State Law Enforcement Division (SLED) shall create and operate a statewide sexual assault kit tracking system. SLED may contract with state or non-state entities including, but not limited to, private software and technology providers, for the creation, operation, and maintenance of the system.

(B) All medical facilities, law enforcement agencies, forensic laboratories, or other persons or entities that collect evidence for, or receive, store, analyze, maintain or preserve sexual assault kits, must participate in the statewide sexual assault kit tracking system for the purpose of tracking the location and status of all sexual assault kits in their custody. Participation must begin according to the implementation schedule established by SLED.

(C) The statewide sexual assault kit tracking system must:

(1) track the location and status of sexual assault kits throughout the criminal justice process, including the initial collection in examinations performed at medical facilities, receipt and storage at law enforcement agencies, receipt and analysis at forensic laboratories, and storage and any destruction after completion of analysis;

(2) allow participating entities who have custody of sexual assault kits to update and track the status and location of the kits;

(3) allow victims of sexual assault to anonymously track or receive updates regarding the status of their sexual assault kits; and

(4) use electronic or other technologies which allow for continuous access.

(D) SLED may use a phased implementation process in order to launch the system and facilitate entry and use of the system for entities required to participate pursuant to subsection (B). SLED may phase in initial participation according to region, volume, or other appropriate classifications. All entities must participate fully in the system no later than June 1, 2022. SLED shall submit a report on the current status and plan for launching the system, including the plan for phased implementation, to the House and Senate Judiciary committees and the Governor by January 1, 2021.

(E) SLED shall submit a semiannual report on the statewide sexual assault kit tracking system to the House and Senate Judiciary committees and the Governor. SLED may publish the current report on its website. The first report is due July 31, 2022, and subsequent reports are due January thirty‑first and July thirty‑first of each year. The report must include the:

(1) total number of sexual assault kits in the system statewide and by jurisdiction;

(2) total and semiannual number of sexual assault kits where forensic analysis has been completed statewide and by jurisdiction;

(3) number of sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(4) total and semiannual number of sexual assault kits where forensic analysis has been requested but not completed statewide and by jurisdiction;

(5) average and median length of time for sexual assault kits to be submitted for forensic analysis after being added to the system, including separate sets of data for all sexual assault kits in the system statewide and by jurisdiction and for sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(6) average and median length of time for forensic analysis to be completed on sexual assault kits after being submitted for analysis, including separate sets of data for all sexual assault kits in the system statewide and by jurisdiction and for sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(7) total and semiannual number of sexual assault kits destroyed or removed from the system statewide and by jurisdiction;

(8) total number of sexual assault kits, statewide and by jurisdiction, where forensic analysis has not been completed and six months or more have passed since those sexual assault kits were added to the system; and

(9) total number of sexual assault kits, statewide and by jurisdiction, where forensic analysis has not been completed and one year or more has passed since those sexual assault kits were added to the system.

(F) For the purpose of reports under subsection (E), a sexual assault kit must be assigned to the jurisdiction associated with the law enforcement agency anticipated to receive the sexual assault kit or otherwise in custody of the sexual assault kit.

(G) SLED shall establish guidelines to ensure that the statewide sexual assault kit tracking system protects victim information from disclosure to nonparticipating entities. Except as otherwise required for reporting under subsection (E), information maintained in the statewide sexual assault kit tracking system is confidential and not a public record as defined in Section 30-4-20(C).

(H) A participating entity may not be held civilly liable for damages arising from the release of information or the failure to release information related to the statewide sexual assault kit tracking system, as long as the release was without gross negligence.”

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

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 8, 2019**

**State Expenditure**

This bill requires the State Law Enforcement Division (SLED) to create and operate a statewide sexual assault kit tracking system. SLED may contract with in-state or out-of-state information technology entities to create, operate, and maintain this system. The purpose of the system is to track the location and status of sexual assaults kits throughout the criminal justice process. The system will be accessible to and may be updated by medical facilities, law enforcement agencies, prosecutors, and others having custody of sexual assault kits. It will also allow victims of sexual assault to anonymously track or receive updates regarding the status of their kits.

The bill allows SLED to employ a phased implementation process to launch the system based on priority of region, volume, or other appropriate classification. All custodians of sexual assault kits must participate in the system no later than June 1, 2021. SLED is responsible for submitting to the House and Senate Judiciary committees and the Governor an initial report on the status of the system and its implementation plan by January 1, 2020. Thereafter, SLED must submit to the noted committees and the Governor a semiannual report on the statewide tracking system, the first report being due on July 31, 2021, and subsequent reports being due on January 31st and July 31st of each year. The semiannual reports must include information on the following (note that each requires figures to be presented by jurisdiction and statewide):

 The total number of sexual assault kits;

 The total and semiannual number of kits where forensic analysis has been completed;

 The number of kits added to the system during the reporting period;

 The total and semiannual number of kits where forensic analysis has been requested but not completed;

 The average and median length of time for kits to be submitted for forensic analysis after addition to the system, divided into data sets for all kits in the system and all kits added to the system;

 The average and median length of time for forensic analysis to be completed on the kits after submission for forensic analysis, divided into data sets for all kits in the system and all kits added to the system;

 The total and semiannual number of kits that have been destroyed or removed from the system;

 The total number of kits where forensic analysis has not been completed and six months or more have passed since the kits were added to the system; and

 The total number of kits where forensic analysis has not been completed and one year or more has passed since the kits were added to the system.

A sexual assault kit must be assigned to the jurisdiction associated with the law enforcement agency anticipated to either receive the kit or have custody of it.

Neither a public agency, nor hospital, nor staff of either may be held civilly liable for damages arising from the release or suppression of information related to the statewide sexual assault tracking system, provided there is no gross negligence.

Local law enforcement agencies and sheriffs’ departments must participate in the statewide tracking system in accordance with the implementation schedule established by SLED in order to track the status of all sexual assault kits in their custody or in the custody of other contracted entities. Likewise, SLED’s forensic services laboratory must participate in the tracking system to track the status of all kits in SLED’s custody or in the custody of other contracted entities.

**State Law Enforcement Division.** The expenditure impact of this bill is pending, contingent upon a response from the agency.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 15 TO CHAPTER 3, TITLE 23 SO AS TO PROVIDE THAT THE STATE LAW ENFORCEMENT DIVISION SHALL CREATE AND OPERATE A STATEWIDE SEXUAL ASSAULT KIT TRACKING SYSTEM.

Whereas, the General Assembly recognizes the deep pain and suffering experienced by victims of sexual assault. Sexual assault is an extreme violation of a person’s body and sense of self and safety. Sexual violence is a pervasive social problem. National studies indicate that approximately one in four women will be sexually assaulted in their lifetimes. Survivors often turn to hospitals and local law enforcement for help, and many volunteer to have professionals collect a sexual assault kit to preserve physical evidence from their bodies. The process of collecting a sexual assault kit is extremely invasive and difficult; and

Whereas, the General Assembly finds that, when forensic analysis is completed, the biological evidence contained inside sexual assault kits can be an incredibly powerful tool for law enforcement to solve and prevent crime. Forensic analysis of all sexual assault kits sends a message to survivors that they matter. It sends a message to perpetrators that they will be held accountable for their crimes. The General Assembly is committed to bringing healing and justice to survivors of sexual assault; and

Whereas, the General Assembly recognizes the laudable and successful efforts of law enforcement in the utilization of forensic analysis of sexual assault kits in the investigation and prosecution of crimes in South Carolina. The General Assembly intends to continue building on its efforts through the establishment of the statewide sexual assault kit tracking system. The system will be designed to track all sexual assault kits in this State, regardless of when they were collected, in order to further empower survivors with information, assist law enforcement with investigations and crime prevention, and create transparency and foster public trust. Now, therefore,

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 15

Statewide Sexual Assault Kit Tracking System

Section 23‑3‑1300. (A) The State Law Enforcement Division (SLED) shall create and operate a statewide sexual assault kit tracking system. SLED may contract with state or nonstate entities including, but not limited to, private software and technology providers, for the creation, operation, and maintenance of the system.

(B) The statewide sexual assault kit tracking system must:

(1) track the location and status of sexual assault kits throughout the criminal justice process, including the initial collection in examinations performed at medical facilities, receipt and storage at law enforcement agencies, receipt and analysis at forensic laboratories, and storage and any destruction after completion of analysis;

(2) allow medical facilities performing sexual assault forensic examinations, law enforcement agencies, prosecutors, and other entities in the custody of sexual assault kits to update and track the status and location of sexual assault kits;

(3) allow victims of sexual assault to anonymously track or receive updates regarding the status of their sexual assault kits; and

(4) use electronic technology or technologies allowing continuous access.

(C) SLED may use a phased implementation process in order to launch the system and facilitate entry and use of the system for required participants. SLED may phase‑in initial participation according to region, volume, or other appropriate classifications. All entities in the custody of sexual assault kits shall participate fully in the system no later than June 1, 2021. SLED shall submit a report on the current status and plan for launching the system, including the plan for phased implementation, to the House and Senate Judiciary committees and the Governor by January 1, 2020.

(D) SLED shall submit a semiannual report on the statewide sexual assault kit tracking system to the House and Senate Judiciary committees and the Governor. SLED may publish the current report on its website. The first report is due July 31, 2021, and subsequent reports are due January thirty‑first and July thirty‑first of each year. The report must include the:

(1) total number of sexual assault kits in the system statewide and by jurisdiction;

(2) total and semiannual number of sexual assault kits where forensic analysis has been completed statewide and by jurisdiction;

(3) number of sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(4) total and semiannual number of sexual assault kits where forensic analysis has been requested but not completed statewide and by jurisdiction;

(5) average and median length of time for sexual assault kits to be submitted for forensic analysis after being added to the system, including separate sets of data for all sexual assault kits in the system statewide and by jurisdiction and for sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(6) average and median length of time for forensic analysis to be completed on sexual assault kits after being submitted for analysis, including separate sets of data for all sexual assault kits in the system statewide and by jurisdiction and for sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(7) total and semiannual number of sexual assault kits destroyed or removed from the system statewide and by jurisdiction;

(8) total number of sexual assault kits, statewide and by jurisdiction, where forensic analysis has not been completed and six months or more have passed since those sexual assault kits were added to the system; and

(9) total number of sexual assault kits, statewide and by jurisdiction, where forensic analysis has not been completed and one year or more has passed since those sexual assault kits were added to the system.

(E) For the purpose of reports under subsection (D), a sexual assault kit must be assigned to the jurisdiction associated with the law enforcement agency anticipated to receive the sexual assault kit or otherwise in the custody of the sexual assault kit.

(F) A public agency or entity, including its officials and employees, and any hospital and its employees providing services to victims of sexual assault may not be held civilly liable for damages arising from the release of information or the failure to release information related to the statewide sexual assault kit tracking system, so long as the release was without gross negligence.

Section 23‑3‑1310. Local law enforcement agencies shall participate in the statewide sexual assault kit tracking system established pursuant to this article for the purpose of tracking the status of all sexual assault kits in the custody of local law enforcement agencies and other entities contracting with local law enforcement agencies. Local law enforcement agencies shall begin full participation in the system according to the implementation schedule established by SLED.

Section 23‑3‑1320. A sheriff and his deputies shall participate in the statewide sexual assault kit tracking system established pursuant to this article for the purpose of tracking the status of all sexual assault kits in the custody of his department and other entities contracting with the department. A sheriff shall begin full participation in the system according to the implementation schedule established by SLED.

Section 23‑3‑1330. SLED’s forensic services laboratory shall participate in the statewide sexual assault kit tracking system for the purpose of tracking the status of all sexual assault kits in SLED’s custody and other entities contracting with SLED. SLED’s forensic services laboratory shall begin full participation in the system according to the implementation schedule established by SLED.”

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

‑‑‑‑XX‑‑‑‑