

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
SENATE BILL 645

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

AN ACT

RELATING TO CRIMES; AMENDING THE SEXUAL CRIMES PROSECUTION AND  
TREATMENT ACT TO PROVIDE FOR ADDITIONAL RIGHTS FOR VICTIMS OF  
SEXUAL CRIMES; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 29-11-1 NMSA 1978 (being Laws 1978,  
Chapter 27, Section 1) is amended to read:

"29-11-1. SHORT TITLE.--~~[This act]~~ Chapter 29, Article 11  
NMSA 1978 may be cited as the "Sexual Crimes Prosecution and  
Treatment Act"."

**SECTION 2.** Section 29-11-3 NMSA 1978 (being Laws 1978,  
Chapter 27, Section 3, as amended) is amended to read:

"29-11-3. DEFINITIONS.--As used in the Sexual Crimes  
Prosecution and Treatment Act:

A. "administrator" means the director of the

1 ~~[mental health division of the department of health]~~ behavioral  
2 health services division of the human services department or  
3 such person or office as the administrator may designate to act  
4 in ~~[his]~~ the administrator's stead;

5 B. "evidence" means that evidence relating to the  
6 commission of a sexual crime;

7 C. "forensic medical examination" means an  
8 examination made of a victim of a sexual crime by a health care  
9 provider for the purpose of gathering and preserving evidence  
10 of a sexual crime for use in a court proceeding;

11 ~~[G.]~~ D. "medical and psychological treatment"  
12 includes that medical, mental or emotional treatment provided a  
13 victim of a sexual crime. In addition to the improved physical  
14 and emotional condition of a victim, the treatment should  
15 result in the improved ability of a victim to make informed and  
16 rational choices about serving as a witness in the prosecution  
17 of a suspect of a sexual crime; ~~[and~~

18 ~~D.]~~ E. "sexual crime" includes any act ~~[which]~~ that  
19 may be alleged to be a sexual offense or an attempted sexual  
20 offense under the provisions of Sections 30-9-10 through  
21 ~~[30-9-16]~~ 30-9-14.3 and 30-10-3 NMSA 1978;

22 F. "sexual crime collection kit" means a human  
23 biological specimen or specimens collected by a health care  
24 provider during a forensic medical examination from the victim  
25 of a sexual crime; and

1           G. "untested sexual crime collection kit" means a  
2 sexual crime collection kit that has not been submitted to the  
3 state crime laboratory or a similar qualified laboratory for  
4 either a serology or deoxyribonucleic acid test."

5           SECTION 3. A new section of the Sexual Crimes Prosecution  
6 and Treatment Act is enacted to read:

7           "[NEW MATERIAL] RIGHTS SUPPLEMENTAL TO VICTIMS OF CRIME  
8 ACT.--The rights enumerated in the Sexual Crimes Prosecution  
9 and Treatment Act shall be supplemental to the rights included  
10 in the Victims of Crime Act."

11           SECTION 4. A new section of the Sexual Crimes Prosecution  
12 and Treatment Act is enacted to read:

13           "[NEW MATERIAL] INVENTORY--REPORTING.--

14           A. No later than October 31, 2015, the office of  
15 the attorney general, in consultation with representatives from  
16 a statewide coalition working to end sexual violence, shall:

17                   (1) establish, implement and complete a  
18 process for conducting an inventory of all sexual crime  
19 collection kits and forensic evidence;

20                   (2) report the results of the inventory to the  
21 New Mexico legislative council to forward to the appropriate  
22 legislative interim committee that studies courts, corrections  
23 and justice-related issues;

24                   (3) create standards for what evidence must be  
25 submitted to any crime laboratory in New Mexico;

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1 (4) create time frames for when the evidence  
2 must be submitted, analyzed and compared to DNA databases;

3 (5) create victim notification and consent  
4 procedures and forms that include:

5 (a) standards for consent for the  
6 collection, testing and release of test results of the forensic  
7 medical evidence; and

8 (b) consent forms that clearly and  
9 plainly: 1) explain the potential effects of each step of the  
10 process, including collection, testing and release of test  
11 results, and require acknowledgment of consent for each step of  
12 the process; 2) give the victim the right to withdraw consent  
13 at any point in the process; 3) explain when and how results of  
14 tests may be released and for what purposes; and 4) set forth  
15 the date by which a law enforcement agency must analyze its  
16 backlog of forensic medical evidence if it does not forward  
17 such evidence to the appropriate crime laboratory;

18 (6) create recommendations on how long to  
19 store untested sexual crime collection kits;

20 (7) create recommendations on how to destroy  
21 untested sexual crime collection kits;

22 (8) create recommendations on how to destroy  
23 sexual crime collection kits from other cases; and

24 (9) create recommendations concerning any  
25 changes or clarifications to the procedures set forth in

1 Section 30-9-19 NMSA 1978.

2 B. The inventory required in Paragraph (1) of  
3 Subsection A of this section shall include a report containing:

4 (1) the number of untested sexual crime  
5 collection kits in the possession of each law enforcement  
6 agency in the state; and

7 (2) the date the sexual crime collection kits  
8 reported in the inventory were collected."

9 SECTION 5. EMERGENCY.--It is necessary for the public  
10 peace, health and safety that this act take effect immediately.

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