

**Local Mandate Fiscal Impact Estimate
Kentucky Legislative Research Commission
2016 Regular Session**

Part I: Measure Information

Bill Request #: 317

Bill #: SB 63 GA

Bill Subject/Title: AN ACT relating to evidence and declaring an emergency.

Sponsor: Senator Denise Harper Angel

Unit of Government: City County Urban-County
 Charter County Consolidated Local Unified Local
Government

Office(s) Impacted: Local Law Enforcement

Requirement: Mandatory Optional

Effect on Powers & Duties: Modifies Existing Adds New Eliminates Existing

Part II: Purpose and Mechanics

SB 63 GA requires that all sexual assault examination kits which have not been subjected to testing shall be submitted to the KSP forensic laboratory by January 1, 2017.

SB 63 GA adds an additional requirement for local agencies who wish to obtain funds from the Law Enforcement Foundation Program fund to include that by January 17, 2017 they must have a written policy and procedures manual related to sexual assault examinations that has been approved by the Justice and Public Safety Cabinet and which includes:

- Evidence collected as a result of an examination performed under KRS 216B.400* must be taken into custody within five days of notice from the collecting facility that the evidence is available;
**KRS 216B.400 deals with the emergency care and examination services for victims of sexual offenses, examination expenses paid by Crime Victims' Compensation Board, reporting to law enforcement, and examination samples as evidence.*
- A requirement that evidence received from a collection facility relating to an incident that occurred outside the jurisdiction of KSP be transmitted to a department with jurisdiction within ten days of its receipt by the department.

- Evidence must be transported to a Department of State Police (KSP) forensic laboratory within thirty days of its receipt by the department;
- A requirement that if a suspect standard is available, it be transmitted to the KSP forensic laboratory with the evidence received from a collecting facility. KSP may give priority to analysis and classification of kits where the suspect has been identified and the reference standard for comparison is provided with the kit.
- Process for notifying the victim of the progress of the testing and if there had been a match to other DNA samples and if the evidence is to be destroyed. This policy may allow for delaying notification until the suspect is apprehended or the Commonwealth's Attorney consents to the notification.

SB 63 GA provides that failure to meet a deadline established within the policy shall not be reason for a dismissal of a criminal action or make the evidence inadmissible in a criminal action.

SB 63 GA requires that by July 1, 2018, the average completion rate for classification of sexual assault evidence collection kits shall not exceed 90 days; by July 1, 2020, the average completion rate shall not exceed 60 days. Failure to meet these deadlines shall not be reason for a dismissal of a criminal action or make the evidence inadmissible in a criminal action. The KSP shall by August 1 of each year report to the Legislative Research Commission on the average completion rate for the immediately preceding five fiscal years.

SB 63 GA allows for the expedited acquisition or repair of laboratory equipment required for the analysis of evidence due to statutory deadlines. The acquisition or repair shall be exempt from the competitive bidding process. Each time an expedited acquisition or repair is made, it shall be fully documented within thirty days by the agency head to the Secretary of the Finance and Administration Cabinet, attached to an ordering or payment document in the state's procurement system. This documentation shall include:

- Explanation of the equipment acquired or repaired;
- Name of vendor selected;
- Amount of procurement;
- Other price quotations obtained; and
- Basis for selection of vendor.

SB 63 GA provides that the KSP forensic laboratory is not required to meet the average completion time goals if appropriated funds are insufficient.

SB 63 GA requires that if a victim chooses to report to law enforcement, the hospital shall notify law enforcement within 24 hours.

SB 63 GA requires that if the victim chooses not to report immediately or file a report within one year, the victim shall be informed the evidence samples may be destroyed.

SB 63 GA increases membership of the Sexual Assault Response Team Advisory Committee to include the executive director of the Kentucky Association of Children's Advocacy Centers.

SB 63 GA expands the responsibilities of the Sexual Assault Response Team Advisory Committee to include:

- Provide assistance to each regional rape crisis center by establishing a regional sexual assault response team;
- Development policies for law enforcement agencies related to exam kits and investigating sexual assaults with a victim-centered, evidence-based approach;
- By January 1, 2018 report to the General Assembly the results of the analysis of previously untested kits by the KSP forensic laboratory and whether testing led to identification and prosecution of suspects and the cost to society of the offenses committed by the suspects identified;
- By July 1, 2018 and by each July 1 thereafter, report to the General Assembly and to the Secretary of the Justice and Public Safety Cabinet on the number of sexual assaults reported, the number of exam kits submitted to the KSP forensic laboratory, the number of kits tested, and the number of charges filed and convictions obtained in sexual assault cases in the previous calendar year.

SB 63 GA requires the KSP to collect the following statistical data and then submit by May 1, 2018 and by each May 1 thereafter to the Sexual Assault Response Team Advisory Committee:

- Statistical data from other law enforcement agencies regarding the reporting and investigations of any person charged with a sexual offense;
- The number of sexual assault evidence kits submitted to law enforcement agencies;
- The number of such kits submitted to the KSP lab, and the number of kits tested

SB 63 GA requires the Administrative Offices of the Courts to collect statistical data regarding the prosecution, dismissal, conviction, or acquittal of any person charged with a sexual offense. This data shall be provided by May 1, 2018 and by each May 1 thereafter to the Sexual Assault Response Team Advisory Committee.

SB 63 GA requires the Cabinet for Health and Family Services to designate as a Sexual Assault Nurse Examiner (SANE)-ready hospital any acute care hospital which has certified, and recertifies annually, that a sexual assault nurse examiner is on call 24 hours each day for the examination of victims of sexual offenses. If the hospital fails to recertify, or it notifies the Secretary that it does not meet the requirements, then the Secretary shall suspend or revoke the hospital's SANE-designation. The Cabinet shall maintain a list of SANE hospitals on its web site and provide the list to the Kentucky Board of Emergency Medical Services who shall share the list with each local emergency medical services provider at least annually, and as new centers and hospitals are designated and certified.

SB 63 GA requires that beginning January 1, 2017, the Kentucky Law Enforcement Council shall include at least eight hours of training relevant to sexual assault within the basic training course. Beginning January 1, 2017, the Council shall establish a 40 hour sexual assault investigation training course. By January 1, 2019, all agencies shall have one or more officers trained in this curriculum depending on the size of the agency.

SB 63 GA provides that no evidence subject to DNA testing shall be disposed of prior to trial unless the evidence has been in custody for over fifty years; or if more than ten years, the prosecution has determined that the defendant will not be tried and has made a motion to destroy the evidence.

Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost

The fiscal impact of SB 63 GA on local governments is expected to be moderate.

The Cabinet for Health and Family Services (CHFS) shows 4 hospitals owned, operated, or contracted by local governments. The hospitals all happen to be owned by county governments. Those hospitals are listed below:

Casey County Hospital
Hardin Memorial Hospital
Knox County Hospital
Russell County Hospital

Current law requires every hospital of this state which offers emergency services to have a physician, a sexual assault nurses examiner (SANE) or another qualified medical professional be on call 24 hours each day for examination of persons seeking treatment as victims of sexual offenses as defined by the following statutes:

- KRS 510.040 Rape in the first degree.
- KRS 510.050 Rape in the second degree.
- KRS 510.060 Rape in the third degree.
- KRS 510.070 Sodomy in the first degree.
- KRS 510.080 Sodomy in the second degree.
- KRS 510.090 Sodomy in the third degree.
- KRS 510.110 Sexual abuse in the first degree.
- KRS 510.120 Sexual abuse in the second degree.
- KRS 510.130 Sexual abuse in the third degree.
- KRS 510.140 Sexual Misconduct.
- KRS 530.020 Incest.
- KRS 530.064(1)(a) Illegal sexual activity with a minor in the first degree.
- KRS 531.310 Use of a minor in a sexual performance.

These hospitals may have **additional cost** if they wish to become a SANE-ready hospital. This may entail either hiring one or more new employees certified as a Sexual Assault Nurse Examiner or training current staff to fulfill this requirement.

Local law enforcement agencies who wish to obtain funds from the Law Enforcement Foundation Program fund must have a written policy and procedures manual related to sexual assault examinations that has been approved, by the Justice and Public Safety Cabinet no later than January 17, 2017. There will be cost associated with writing and dispersing the manual, and in the event a policy has not been formulated and funding is lost from the Law Enforcement Foundation Program, that money will have to be made up by the local government.

Local law enforcement may have costs associated with the required training. Eight hours of sexual assault training is to be included in basic training which is an existing expense related to paying the officer's salary while attending. The Department of Criminal Justice Training covers the cost of basic training room and board. Regarding the proposed 40-hour sexual assault investigation training course which all agencies are required to have one or more officers trained in by January 1, 2019, this may be a cost to the local agency since the proposal does not address who pays for the 40-hour training.

Data Source(s): LRC Staff

Preparer: Wendell F. Butler **Reviewer:** JWN **Date:** 3/17/16