

Assembly Bill No. 97—Assemblymen
Benitez-Thompson and Yeager

Joint Sponsor: Senator Ford

CHAPTER.....

AN ACT relating to crimes; requiring a law enforcement agency to submit certain sexual assault forensic evidence kits to a forensic laboratory within a certain period after receipt thereof; requiring a forensic laboratory to test sexual assault forensic evidence kits within a certain period after receipt thereof and to report certain information concerning sexual assault forensic evidence kits on an annual basis; requiring the Attorney General to designate a department or division of the Executive Department of State Government to establish a statewide sexual assault forensic evidence kit tracking program; making various changes to the Subcommittee to Review Arrestee DNA of the Advisory Commission on the Administration of Justice; authorizing a county to be reimbursed from the Fund for the Compensation of Victims of Crime for the payment of costs associated with forensic medical examinations of victims of sexual assault; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.3 of this bill requires a law enforcement agency to submit a sexual assault forensic evidence kit (hereinafter "SAFE kit") to the applicable forensic laboratory responsible for conducting a genetic marker analysis not later than 30 days after receiving the SAFE kit. Such a requirement does not apply with regard to any noninvestigatory SAFE kit associated with a victim who has chosen to remain anonymous. **Section 1.3** also requires each forensic laboratory that receives a SAFE kit from a law enforcement agency to: (1) test the SAFE kit not later than 120 days after receiving the SAFE kit; and (2) upon completion of a genetic marker analysis, include the DNA profile obtained from the genetic marker analysis in the State DNA Database and the Federal Bureau of Investigation's Combined DNA Index System. **Section 1.3** further requires each forensic laboratory to submit a report annually to the Director of the Legislative Counsel Bureau, for transmittal to the next session of the Legislature or to the Legislative Commission, as applicable. The report must include certain information concerning SAFE kits received by the forensic laboratory, depending on whether a SAFE kit was received by the forensic laboratory before January 1, 2015, or on or after January 1, 2015.

Section 1.7 of this bill requires the Attorney General to designate a department or division of the Executive Department of State Government to establish a statewide program to track SAFE kits. **Section 1.7:** (1) requires the designated department or division to submit to the Governor and the Director of the Legislative Counsel Bureau, for transmittal to a Subcommittee of the Advisory Commission on the Administration of Justice, biannual reports concerning the program; and (2) authorizes the designated department or division to apply for and accept any gift,



donation, bequest, grant or other source of money to carry out the provisions relating to the program. **Section 1.7** also requires each law enforcement agency, prosecutor, forensic laboratory and provider of health care who performs forensic medical examinations in this State to participate in the program and provides immunity from civil liability to any agency or person who participates in the program in good faith and without gross negligence.

Existing law establishes the Subcommittee to Review Arrestee DNA of the Advisory Commission on the Administration of Justice and requires the Subcommittee to evaluate, review and submit a report to the Commission regarding certain issues relating to arrestee DNA. (NRS 176.01246) **Section 3.1** of this bill: (1) revises the name of the Subcommittee to reflect the broader duties assigned pursuant to this bill; and (2) requires the Subcommittee to additionally evaluate, review and submit a report to the Commission regarding the submittal, storage and testing of SAFE kits.

Existing law requires a county in whose jurisdiction a sexual assault is committed to pay any costs incurred by a hospital for the forensic medical examination of the victim of the sexual assault. (NRS 217.300) Existing law also authorizes a compensation officer of the Department of Administration to order the payment of compensation from the Fund for the Compensation of Victims of Crime to or for the benefit of victims of certain crimes or to certain other specified persons. (NRS 217.033, 217.160, 217.260) **Section 3.3** of this bill additionally authorizes a compensation officer to order the payment of compensation to a county for the reimbursement of costs associated with conducting forensic medical examinations of victims of sexual assault that are paid by the county, in an amount equal to the cost of 10 forensic medical examinations or \$10,000, whichever is less, each fiscal year.

Section 3.7 of this bill makes an appropriation of \$3,000,000 to the Office of the Attorney General to be allocated pursuant to an interlocal agreement to a public entity for the purpose of making payments to forensic laboratories to reduce the backlog of sexual assault forensic evidence kits that have not been tested.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 200 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.7 of this act.

Sec. 1.3. *1. Except as otherwise provided in this subsection, a law enforcement agency shall, not later than 30 days after receiving a sexual assault forensic evidence kit, submit the sexual assault forensic evidence kit to the applicable forensic laboratory responsible for conducting a genetic marker analysis. The provisions of this subsection do not apply to any noninvestigatory sexual assault forensic evidence kit associated with a victim who has chosen to remain anonymous.*

2. A forensic laboratory shall, not later than 120 days after receiving a sexual assault forensic evidence kit from a law



enforcement agency, test the sexual assault forensic evidence kit. Upon completion of a genetic marker analysis, the forensic laboratory shall include the DNA profile obtained from the genetic marker analysis in the State DNA Database and CODIS.

3. Each forensic laboratory that receives a sexual assault forensic evidence kit from a law enforcement agency shall, on or before January 31 of each year, submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature, if the Legislature is in session, or to the Legislative Commission, if the Legislature is not in session. If the Legislature is in session, the Director shall ensure that each member of the Assembly and Senate Standing Committees on Judiciary receives a copy of the report. The report must contain:

(a) With regard to any sexual assault forensic evidence kit received by the forensic laboratory before January 1, 2015:

(1) The total number of such sexual assault forensic evidence kits tested during the immediately preceding calendar year; and

(2) The total number of such sexual assault forensic evidence kits that have not been tested.

(b) With regard to any sexual assault forensic evidence kit received by the forensic laboratory on or after January 1, 2015:

(1) The total number of such sexual assault forensic evidence kits tested during the immediately preceding calendar year and, for each such sexual assault forensic evidence kit, the date on which:

(I) The forensic evidence was obtained from a forensic medical examination;

(II) The sexual assault forensic evidence kit was submitted to the forensic laboratory; and

(III) The DNA profile obtained from the genetic marker analysis was included in the State DNA Database and CODIS.

(2) The total number of such sexual assault forensic evidence kits that have not been tested and, for each such sexual assault forensic evidence kit, the date on which:

(I) The forensic evidence was obtained from a forensic medical examination; and

(II) The sexual assault forensic evidence kit was submitted to the forensic laboratory.

4. As used in this section:

(a) "CODIS" has the meaning ascribed to it in NRS 176.09113.



(b) "State DNA Database" has the meaning ascribed to it in NRS 176.09119.

Sec. 1.7. *1. A statewide program to track sexual assault forensic evidence kits must be established in this State. The Attorney General shall, pursuant to the recommendation of the Sexual Assault Kit Working Group, designate a department or division of the Executive Department of State Government to establish the program. The designated department or division may contract with any appropriate public or private agency, organization or institution to carry out the provisions of this section.*

2. The program to track sexual assault forensic evidence kits must:

(a) Track the location and status of sexual assault forensic evidence kits, including, without limitation, the initial forensic medical examination, receipt by a law enforcement agency and receipt and genetic marker analysis at a forensic laboratory.

(b) Allow providers of health care who perform forensic medical examinations, law enforcement agencies, prosecutors, forensic laboratories and any other entities having sexual assault forensic evidence kits in their custody to track the status and location of sexual assault forensic evidence kits.

(c) Allow a victim of sexual assault to anonymously track or receive updates regarding the status and location of his or her sexual assault forensic evidence kit.

3. The department or division designated pursuant to subsection 1 shall, on or before January 1 and July 1 of each year, submit to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the Subcommittee to Review DNA of the Advisory Commission on the Administration of Justice and post on the Internet website maintained by the department or division a report concerning the statewide program to track sexual assault forensic evidence kits. The report must include:

(a) The number of sexual assault forensic evidence kits in the program in each county.

(b) The number of sexual assault forensic evidence kits for which genetic marker analysis has been completed for each county for the last 6 months.

(c) The number of sexual assault forensic evidence kits added to the program in each county during the last 6 months.

(d) The number of sexual assault forensic evidence kits for which genetic marker analysis has been requested but not completed for each county.



(e) For this State as a whole and each county, the average and median time between a forensic medical examination and receipt of a sexual assault forensic evidence kit by a forensic laboratory for genetic marker analysis, overall and for the last 6 months.

(f) For this State as a whole and each county, the average and median time between receipt of a sexual assault forensic evidence kit by a forensic laboratory and genetic marker analysis, overall and for the last 6 months.

(g) The number of sexual assault forensic evidence kits in each county awaiting genetic marker analysis for more than 1 year and 6 months after forensic medical examination.

4. Each law enforcement agency, prosecutor, forensic laboratory and provider of health care who performs forensic medical examinations in this State shall participate in the statewide program to track sexual assault forensic evidence kits for the purpose of tracking the status of any sexual assault forensic evidence kits in the custody of the agency, prosecutor, laboratory or provider, or a third party under contract with such agency, prosecutor, laboratory or provider.

5. Any agency or person who acts pursuant to this section in good faith and without gross negligence is immune from civil liability for those acts.

6. The department or division designated pursuant to subsection 1 may apply for and accept any gift, donation, bequest, grant or other source of money to carry out the provisions of this section.

7. As used in this section, "Sexual Assault Kit Working Group" means the statewide working group led by the Office of the Attorney General to create policies and procedures to address the backlog of sexual assault forensic evidence kits that have not been tested.

Sec. 2. NRS 200.364 is hereby amended to read as follows:

200.364 As used in NRS 200.364 to 200.3784, inclusive, *and section 1.3 of this act*, unless the context otherwise requires:

1. "Forensic laboratory" has the meaning ascribed to it in NRS 176.09117.

2. "Forensic medical examination" has the meaning ascribed to it in NRS 217.300.

3. "Genetic marker analysis" has the meaning ascribed to it in NRS 176.09118.

4. "Offense involving a pupil" means any of the following offenses:



(a) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.

(b) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.

~~12-~~ **5.** “Perpetrator” means a person who commits a sexual offense, an offense involving a pupil or sex trafficking.

~~13-~~ **6.** “Sex trafficking” means a violation of subsection 2 of NRS 201.300.

~~14-~~ **7.** *“Sexual assault forensic evidence kit” means the forensic evidence obtained from a forensic medical examination.*

8. “Sexual offense” means any of the following offenses:

(a) Sexual assault pursuant to NRS 200.366.

(b) Statutory sexual seduction pursuant to NRS 200.368.

~~15-~~ **9.** “Sexual penetration” means cunnilingus, fellatio, or any intrusion, however slight, of any part of a person’s body or any object manipulated or inserted by a person into the genital or anal openings of the body of another, including sexual intercourse in its ordinary meaning. The term does not include any such conduct for medical purposes.

~~16-~~ **10.** “Statutory sexual seduction” means ordinary sexual intercourse, anal intercourse or sexual penetration committed by a person 18 years of age or older with a person who is 14 or 15 years of age and who is at least 4 years younger than the perpetrator.

~~17-~~ **11.** “Victim” means a person who is a victim of a sexual offense, an offense involving a pupil or sex trafficking.

12. *“Victim of sexual assault” has the meaning ascribed to it in NRS 217.280.*

Sec. 2.5. NRS 200.364 is hereby amended to read as follows:

200.364 As used in NRS 200.364 to 200.3784, inclusive, and ~~section~~ **sections** 1.3 **and** 1.7 of this act, unless the context otherwise requires:

1. “Forensic laboratory” has the meaning ascribed to it in NRS 176.09117.

2. “Forensic medical examination” has the meaning ascribed to it in NRS 217.300.

3. “Genetic marker analysis” has the meaning ascribed to it in NRS 176.09118.

4. “Offense involving a pupil” means any of the following offenses:

(a) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.

(b) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.



5. "Perpetrator" means a person who commits a sexual offense, an offense involving a pupil or sex trafficking.

6. "Sex trafficking" means a violation of subsection 2 of NRS 201.300.

7. "Sexual assault forensic evidence kit" means the forensic evidence obtained from a forensic medical examination.

8. "Sexual offense" means any of the following offenses:

(a) Sexual assault pursuant to NRS 200.366.

(b) Statutory sexual seduction pursuant to NRS 200.368.

9. "Sexual penetration" means cunnilingus, fellatio, or any intrusion, however slight, of any part of a person's body or any object manipulated or inserted by a person into the genital or anal openings of the body of another, including sexual intercourse in its ordinary meaning. The term does not include any such conduct for medical purposes.

10. "Statutory sexual seduction" means ordinary sexual intercourse, anal intercourse or sexual penetration committed by a person 18 years of age or older with a person who is 14 or 15 years of age and who is at least 4 years younger than the perpetrator.

11. "Victim" means a person who is a victim of a sexual offense, an offense involving a pupil or sex trafficking.

12. "Victim of sexual assault" has the meaning ascribed to it in NRS 217.280.

Sec. 3. (Deleted by amendment.)

Sec. 3.1. NRS 176.01246 is hereby amended to read as follows:

176.01246 1. There is hereby created the Subcommittee to Review ~~Arrestee~~ DNA of the Commission.

2. The Chair of the Commission shall appoint the members of the Subcommittee which must include, without limitation:

(a) A member experienced in defending criminal actions.

(b) A member of a minority community organization whose mission includes the protection of civil rights for minorities.

3. The Chair of the Commission shall designate one of the members of the Subcommittee as Chair of the Subcommittee.

4. The Subcommittee shall meet at the times and places specified by a call of the Chair. A majority of the members of the Subcommittee constitutes a quorum, and a quorum may exercise any power or authority conferred on the Subcommittee.

5. The Subcommittee shall consider issues relating to DNA ~~of arrested persons~~ and shall evaluate, review and submit a report to the Commission with recommendations concerning such issues. The



issues considered by the Subcommittee and the report submitted by the Subcommittee must include, without limitation:

(a) The costs and procedures relating to the methods, implementation and utilization of the provisions for the destruction of biological specimens and purging of DNA profiles and DNA records of arrested persons; ~~and~~

(b) The collection and review of information concerning the number of requests for the destruction of biological specimens and purging of DNA profiles and DNA records of arrested persons and the number and percentage of such requests that are denied ~~it~~; and

(c) The submittal, storage and testing of sexual assault forensic evidence kits, including, without limitation, the review of any report required pursuant to section 1.7 of this act.

6. Any Legislators who are members of the Subcommittee are entitled to receive the salary provided for a majority of the members of the Legislature during the first 60 days of the preceding session for each day's attendance at a meeting of the Subcommittee.

7. While engaged in the business of the Subcommittee, to the extent of legislative appropriation, each member of the Subcommittee is entitled to receive the per diem allowance and travel expenses as provided for state officers and employees generally.

8. As used in this section:

(a) "Biological specimen" has the meaning ascribed to it in NRS 176.09112.

(b) "DNA" has the meaning ascribed to it in NRS 176.09114.

(c) "DNA profile" has the meaning ascribed to it in NRS 176.09115.

(d) "DNA record" has the meaning ascribed to it in NRS 176.09116.

(e) "Sexual assault forensic evidence kit" has the meaning ascribed to it in NRS 200.364.

Sec. 3.3. NRS 217.160 is hereby amended to read as follows:

217.160 1. The compensation officer may order the payment of compensation:

(a) To or for the benefit of the victim.

(b) If the victim has suffered personal injury, to any person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of the injury.

(c) If the victim dies, to or for the benefit of any one or more of the dependents of the victim.

(d) To a minor who is a member of the household or immediate family of a victim of a battery which constitutes domestic violence



pursuant to NRS 33.018 who needs an assessment, a psychological evaluation or psychological counseling for emotional trauma suffered by the minor as a result of the battery.

(e) To a member of the victim's household or immediate family for psychological counseling for emotional trauma suffered by the member as a result of the crime of murder as defined in NRS 200.010.

(f) To a county in whose jurisdiction a sexual assault was committed for the reimbursement of costs associated with a forensic medical examination of a victim of sexual assault that are paid by the county pursuant to NRS 217.300. A county may be reimbursed pursuant to this paragraph in an amount equal to the cost of 10 forensic medical examinations or \$10,000, whichever is less, each fiscal year.

2. As used in this section:

(a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(b) *"Forensic medical examination" has the meaning ascribed to it in NRS 217.300.*

(c) "Household" means an association of persons who live in the same home or dwelling and who:

(1) Have significant personal ties to the victim; or

(2) Are related by blood, adoption or marriage, within the first degree of consanguinity or affinity.

~~(c)~~ (d) "Immediate family" means persons who are related by blood, adoption or marriage, within the first degree of consanguinity or affinity.

(e) "Victim of sexual assault" has the meaning ascribed to it in NRS 217.280.

Sec. 3.7. There is hereby appropriated from the State General Fund to the Office of the Attorney General the sum of \$3,000,000 to be allocated pursuant to an interlocal agreement to a public entity for the purpose of making payments to forensic laboratories to reduce the backlog of sexual assault forensic evidence kits that have not been tested.

Sec. 4. 1. The amendatory provisions of:

(a) Subsections 1 and 2 of section 1.3 of this act apply to any sexual assault forensic evidence kit received by a forensic laboratory from a law enforcement agency on or after October 1, 2017.

(b) Section 3.3 of this act apply to costs associated with a forensic medical examination of a victim of sexual assault that are paid by a county on or after October 1, 2017.



2. Each forensic laboratory shall, on or before January 31, 2018, submit its first report to the Legislative Commission.

3. As used in this section:

(a) "Forensic laboratory" has the meaning ascribed to it in NRS 176.09117.

(b) "Forensic medical examination" has the meaning ascribed to it in NRS 217.300.

(c) "Sexual assault forensic evidence kit" has the meaning ascribed to it in NRS 200.364, as amended by section 2 of this act.

(d) "Victim of sexual assault" has the meaning ascribed to it in NRS 217.280.

Sec. 4.5. The department or division designated by the Attorney General pursuant to section 1.7 of this act to establish a statewide program to track sexual assault forensic evidence kits shall, on or before July 1, 2021, submit to the Governor and the Subcommittee to Review DNA of the Advisory Commission on the Administration of Justice created by NRS 176.01246, as amended by section 3.1 of this act, a report concerning the status of the program and a plan for launching the program, including a plan for phased implementation.

Sec. 5. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 6. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 7. (Deleted by amendment.)

Sec. 8. 1. This section and sections 1, 1.3, 2, 3.3 to 4, inclusive, 5 and 6 of this act become effective on October 1, 2017.

2. Sections 1.7, 2.5, 3.1 and 4.5 of this bill become effective on January 1, 2021.



