



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Dennis M. Papp

### **S.B. 323**

132nd General Assembly  
(As Introduced)

Sen. Kunze

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### **BILL SUMMARY**

- Requires the Attorney General to create and maintain a statewide tracking system for the processing of sexual assault examination kits.
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### **CONTENT AND OPERATION**

#### **Operation of the bill**

The bill requires the Attorney General (the AG), in consultation with the Attorney General's Advisory Group on Sexual Assault Examination Kit Tracking, to develop recommendations for establishing a statewide sexual assault examination kit tracking system (the SKTS). Under the bill, based on those recommendations, the AG must create, operate, and maintain the SKTS and identify and allocate money for that purpose from the appropriate funds available to the AG. The bill specifies that the AG may adopt rules under the Administrative Procedure Act to facilitate the implementation of the SKTS.<sup>1</sup> The AG issued a news release on August 9, 2018, announcing that he is creating the Advisory Group to study best practices and provide advice on how Ohio's tracking system should operate – the Advisory Group will include victim advocates, sexual assault nurse examiners, law enforcement, prosecutors, and representatives from hospital associations and crime laboratories and its members will give special consideration to protecting the privacy of survivors who use the system.<sup>2</sup>

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<sup>1</sup> R.C.109.67(A) and (D).

<sup>2</sup> <https://www.ohioattorneygeneral.gov/Media/News-Releases/August-2018/Ohio-Attorney-General-Mike-DeWine-Announces-Development-of-New-Sexual-Assault-Kit-Tracking-System>.

The bill authorizes the AG to contract with state or private entities, including private software and technology providers, for the creation, operation, and maintenance of the SKTS. The SKTS must do all of the following regarding sexual assault examination kits: (1) track the status of kits from the collection site through the criminal justice process, including the initial collection at medical facilities, inventory and storage by law enforcement agencies, analysis at crime laboratories, and storage or destruction after completion of analysis, (2) allow all entities that receive, maintain, store, or preserve kits to update the status and location of the kits, and (3) allow individuals to anonymously access the statewide tracking system regarding the location and status of their kit. Except as provided in clause (3), information contained in the SKTS is confidential and not subject to public disclosure.<sup>3</sup>

Not later than one year after creation of the SKTS, all entities in the chain of custody of sexual assault examination kits must participate in the system.<sup>4</sup>

### **Current provisions regarding rape kit examinations**

Existing law, unchanged by the bill, requires a law enforcement agency that initiates an investigation of a specified sex offense (rape, sexual battery, gross sexual imposition committed in specified circumstances, or attempted rape) and determines that one or more persons may have committed or participated in a specified sex offense or another offense committed during the course of a specified sex offense to forward the contents of a sexual assault examination kit in its possession to the Bureau of Criminal Identification and Investigation (BCII) or another crime laboratory within 30 days for DNA analysis of the contents of the kit.<sup>5</sup> BCII or a contract laboratory must perform a DNA analysis of the contents of any sexual assault examination kit forwarded to BCII under these provisions as soon as possible after BCII receives the contents of the kit. BCII must enter the resulting DNA record into a DNA database. If the DNA analysis is performed by a contract laboratory, the laboratory must forward the biological evidence to BCII immediately after the laboratory performs the analysis. A contract laboratory must perform a DNA analysis of the contents of any sexual assault examination kit forwarded to it pursuant to these provisions as soon as possible after it receives those contents and enter the resulting DNA record into a DNA database subject to specified standards. Upon the completion of the DNA analysis by BCII or a contract laboratory, BCII must return the contents of the sexual assault examination kit to the law

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<sup>3</sup> R.C. 109.67(B) and (D).

<sup>4</sup> R.C. 109.67(C).

<sup>5</sup> R.C. 2933.82(B)(2)(b) and (c), not in the bill.

enforcement agency, and the agency must secure the contents of the kit in accordance with specified provisions of law regarding the securing of biological evidence.<sup>6</sup>

In conducting DNA analyses of DNA specimens forwarded to BCII under the provisions described above, the state DNA laboratory and any contract laboratory must give DNA analyses of DNA specimens that relate to ongoing criminal investigations priority over DNA analyses of DNA specimens that relate to applications made by a convicted offender who is requesting DNA testing under a state program for such offender testing.<sup>7</sup>

The DNA records, DNA specimens, and personal identification information attached to a DNA record that BCII receives under the provisions described above are not public records under the state's Public Records Law.<sup>8</sup>

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## HISTORY

ACTION	DATE
Introduced	08-09-18

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<sup>6</sup> R.C. 2933.82(A)(3) and (B)(2)(d), not in the bill.

<sup>7</sup> R.C. 109.573(I), not in the bill.

<sup>8</sup> R.C. 109.573(E), not in the bill.

