

House Engrossed

FILED

MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

CHAPTER 38
HOUSE BILL 2268

AN ACT

AMENDING TITLE 13, CHAPTER 14, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 13-1426 AND 13-1427; RELATING TO SEXUAL ASSAULT EVIDENCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 13, chapter 14, Arizona Revised Statutes, is
3 amended by adding sections 13-1426 and 13-1427, to read:

4 13-1426. Sexual assault investigations; collected biological
5 testing; definitions

6 A. A HEALTH CARE FACILITY THAT OBTAINS WRITTEN CONSENT TO RELEASE
7 SEXUAL ASSAULT KIT EVIDENCE SHALL NOTIFY THE INVESTIGATING LAW ENFORCEMENT
8 AGENCY, IF KNOWN, OR THE LAW ENFORCEMENT AGENCY THAT HAS JURISDICTION IN
9 THAT PORTION OF THE LOCAL UNIT OF GOVERNMENT IN WHICH THE HEALTH CARE
10 FACILITY IS LOCATED WITHIN FORTY-EIGHT HOURS AFTER THE SEXUAL ASSAULT KIT
11 EVIDENCE COLLECTION.

12 B. A LAW ENFORCEMENT AGENCY THAT RECEIVES NOTICE PURSUANT TO
13 SUBSECTION A OF THIS SECTION MUST TAKE POSSESSION OF THE SEXUAL ASSAULT
14 EVIDENCE KIT FROM THE HEALTH CARE FACILITY WITHIN FIVE BUSINESS DAYS AFTER
15 NOTIFICATION.

16 C. THE INVESTIGATING LAW ENFORCEMENT AGENCY MUST SUBMIT THE SEXUAL
17 ASSAULT KIT EVIDENCE TO A PUBLIC ACCREDITED CRIME LABORATORY FOR FORENSIC
18 ANALYSIS WITHIN FIFTEEN BUSINESS DAYS AFTER ITS RECEIPT IN ALL CASES IN
19 WHICH A VICTIM REPORTS TO LAW ENFORCEMENT AND LAW ENFORCEMENT DETERMINES
20 THAT A CRIME OCCURRED.

21 D. ALL SEXUAL ASSAULT EXAMINATION KITS THAT ARE SUBMITTED FOR
22 ANALYSIS MUST BE ANALYZED AS SOON AS PRACTICABLE IF SUFFICIENT PERSONNEL
23 AND RESOURCES ARE AVAILABLE.

24 E. THE PUBLIC ACCREDITED CRIME LABORATORY SHALL ENSURE THAT ALL
25 ELIGIBLE DNA PROFILES ARE UPLOADED INTO:

26 1. DATABASES THAT ARE MAINTAINED BY THE STATE LAW ENFORCEMENT
27 AGENCY, IF THE DNA PROFILE MEETS THE REQUIREMENTS OF THE STATE DATABASE
28 COMPARISON POLICIES.

29 2. DATABASES THAT ARE MAINTAINED BY MUNICIPAL LAW ENFORCEMENT
30 AGENCIES, IF THE DNA PROFILE MEETS THE REQUIREMENTS OF THE MUNICIPAL CRIME
31 LABORATORY COMPARISON POLICIES.

32 3. THE COMBINED DNA INDEX SYSTEM DATABASE ESTABLISHED BY THE
33 FEDERAL BUREAU OF INVESTIGATION, IF THE DNA PROFILE MEETS THE REQUIREMENTS
34 OF THE BUREAU'S COMPARISON POLICIES.

35 F. A PUBLIC ACCREDITED CRIME LABORATORY MAY CONTRACT WITH A PRIVATE
36 ACCREDITED CRIME LABORATORY, AS APPROPRIATE, TO PERFORM THE ANALYSIS THAT
37 IS REQUIRED BY THIS SECTION. SUBJECT TO THE NECESSARY QUALITY ASSURANCE
38 REVIEWS BY THE PUBLIC ACCREDITED CRIME LABORATORY.

39 G. THE FAILURE OF A LAW ENFORCEMENT AGENCY TO SUBMIT A REQUEST FOR
40 ANALYSIS WITHIN THE TIME LIMITS PRESCRIBED BY THIS SECTION DOES NOT
41 CONSTITUTE GROUNDS IN ANY CRIMINAL OR CIVIL PROCEEDING TO CHALLENGE THE
42 VALIDITY OF A DNA EVIDENCE ASSOCIATION AND A COURT MAY NOT EXCLUDE ANY
43 EVIDENCE OBTAINED FROM THE SEXUAL ASSAULT EXAMINATION KIT ON THOSE
44 GROUNDS.

1 H. A PERSON WHO IS ACCUSED OR CONVICTED OF COMMITTING A CRIME
2 AGAINST A VICTIM DOES NOT HAVE STANDING TO OBJECT TO ANY FAILURE TO COMPLY
3 WITH THIS SECTION AND SUCH FAILURE IS NOT GROUNDS FOR SETTING ASIDE A
4 CONVICTION OR SENTENCE.

5 I. THIS SECTION DOES NOT ESTABLISH A PRIVATE RIGHT OF ACTION OR
6 CLAIM ON THE PART OF ANY INDIVIDUAL, ENTITY OR AGENCY AGAINST ANY LAW
7 ENFORCEMENT AGENCY OR ANY CONTRACTOR OF A LAW ENFORCEMENT AGENCY.

8 J. FOR THE PURPOSES OF THIS SECTION:

9 1. "LAW ENFORCEMENT AGENCY" MEANS THE POLICE DEPARTMENT OF ANY
10 STATE, COUNTY, MUNICIPALITY OR POSTSECONDARY EDUCATIONAL INSTITUTION OR
11 FOR ANY AGENCY THAT HAS AN AGREEMENT IN PLACE FOR EVIDENCE ANALYSIS.

12 2. "PUBLIC ACCREDITED CRIME LABORATORY" MEANS A CRIME LABORATORY
13 THAT IS ESTABLISHED PURSUANT TO SECTION 41-1771 OR A MUNICIPAL CRIME
14 LABORATORY.

15 13-1427. Sexual assault kits; annual report; definitions

16 A. ON OR BEFORE AUGUST 30 OF EACH YEAR, EACH LAW ENFORCEMENT AGENCY
17 SHALL REPORT TO THE DEPARTMENT OF PUBLIC SAFETY ON A FORM PRESCRIBED BY
18 THE DEPARTMENT OF PUBLIC SAFETY:

19 1. THE NUMBER OF SEXUAL ASSAULT KITS THAT THE AGENCY RECEIVED.

20 2. THE NUMBER OF SEXUAL ASSAULT KITS THAT WERE SUBMITTED TO A
21 PUBLIC ACCREDITED CRIME LABORATORY FOR ANALYSIS.

22 3. THE NUMBER OF SEXUAL ASSAULT KITS THAT WERE NOT SUBMITTED TO A
23 PUBLIC ACCREDITED CRIME LABORATORY FOR ANALYSIS.

24 4. THE REASON OR REASONS FOR NOT SUBMITTING EVIDENCE FROM EACH
25 SEXUAL ASSAULT KIT TO A PUBLIC ACCREDITED CRIME LABORATORY FOR ANALYSIS.

26 B. ON OR BEFORE AUGUST 30 OF EACH YEAR, EACH PUBLIC ACCREDITED
27 CRIME LABORATORY SHALL REPORT TO THE DEPARTMENT OF PUBLIC SAFETY:

28 1. THE NUMBER OF SEXUAL ASSAULT KITS THAT THE LABORATORY RECEIVED.

29 2. THE NUMBER OF SEXUAL ASSAULT KITS THAT WERE NOT ANALYZED AND THE
30 REASON OR REASONS THAT THE KITS WERE NOT ANALYZED.

31 C. ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE DEPARTMENT OF PUBLIC
32 SAFETY SHALL REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE
33 SPEAKER OF THE HOUSE OF REPRESENTATIVES ON THE COMPILATION OF THE REPORTS
34 THAT ARE RECEIVED FROM EACH PUBLIC ACCREDITED CRIME LABORATORY AND EACH
35 LAW ENFORCEMENT AGENCY PURSUANT TO SUBSECTIONS A AND B OF THIS
36 SECTION. THE REPORT MUST INCLUDE ANY RECONCILIATION AND RECOMMENDATIONS
37 FOR INCREASED COMPLIANCE IF NECESSARY. THE DEPARTMENT OF PUBLIC SAFETY
38 SHALL POST THE REPORTS ON THE DEPARTMENT'S WEBSITE.

39 D. FOR THE PURPOSES OF THIS SECTION, "LAW ENFORCEMENT AGENCY" AND
40 "PUBLIC ACCREDITED CRIME LABORATORY" HAVE THE SAME MEANINGS PRESCRIBED IN
41 SECTION 13-1426.

APPROVED BY THE GOVERNOR MARCH 21, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 21, 2017.

Passed the House February 8, 20 17

Passed the Senate March 16, 20 17

by the following vote: 59 Ayes,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

Pro Tempore

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

16 day of March, 20 17

at 4:53 o'clock P M.

[Signature]
Secretary to the Governor

Approved this 21st day of

March, 2017

at 10:46 o'clock A M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 21 day of March, 20 17

at 4:51 o'clock P M.

[Signature]
Secretary of State

H.B. 2268