



Substitute House Bill No. 6498

Public Act No. 15-207

AN ACT CONCERNING EVIDENCE IN SEXUAL ASSAULT CASES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (d) of section 19a-112a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(d) Each health care facility in the state which provides for the collection of sexual assault evidence shall follow the protocol as described in subsection (b) of this section and, with the consent of the victim, shall collect sexual assault evidence. [The] After the collection of any evidence, the health care facility shall contact a police department [which] to receive the evidence. Not later than ten days after the collection of the evidence, the police department shall transfer the evidence, [collected pursuant to subsection (b) of this section,] in a manner that maintains the integrity of the evidence, to the Division of Scientific Services within the Department of Emergency Services and Public Protection or the Federal Bureau of Investigation laboratory. [The agency that receives such evidence] If the evidence is transferred to the division, the division shall analyze the evidence not later than sixty days after the collection of the evidence or, if the victim chose to remain anonymous and not report the sexual assault to the police department at the time of collection, shall hold [that] the evidence for

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[sixty days] at least five years after [such collection, except that, if] the collection of the evidence. If a victim reports the sexual assault to the police [, the evidence shall be analyzed upon request of the police department that transferred the evidence to such agency and held by the agency or police] department after the collection of the evidence, such police department shall notify the division that a report has been filed not later than five days after filing such report and the division shall analyze the evidence not later than sixty days after receiving such notification. The division shall hold any evidence received and analyzed pursuant to this subsection until the conclusion of any criminal proceedings. The failure of a police department to transfer the evidence not later than ten days after the collection of the evidence, or the division to analyze the evidence not later than sixty days after the collection of the evidence or after receiving a notification from a police department, shall not affect the admissibility of the evidence in any suit, action or proceeding if the evidence is otherwise admissible.

Sec. 2. Section 54-86f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(a) In any prosecution for sexual assault under sections 53a-70, 53a-70a and 53a-71 to 53a-73a, inclusive, no evidence of the sexual conduct of the victim may be admissible unless such evidence is (1) offered by the defendant on the issue of whether the defendant was, with respect to the victim, the source of semen, disease, pregnancy or injury, or (2) offered by the defendant on the issue of credibility of the victim, provided the victim has testified on direct examination as to his or her sexual conduct, or (3) any evidence of sexual conduct with the defendant offered by the defendant on the issue of consent by the victim, when consent is raised as a defense by the defendant, or (4) otherwise so relevant and material to a critical issue in the case that excluding it would violate the defendant's constitutional rights. Such evidence shall be admissible only after [a] an in camera hearing on a

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motion to offer such evidence containing an offer of proof. [On motion of either party the court may order such hearing held in camera, subject to the provisions of section 51-164x.] If the proceeding is a trial with a jury, such hearing shall be held in the absence of the jury. If, after a hearing, the court finds that the evidence meets the requirements of this section and that the probative value of the evidence outweighs its prejudicial effect on the victim, the court may grant the motion. The testimony of the defendant during a hearing on a motion to offer evidence under this section may not be used against the defendant during the trial if such motion is denied, except that such testimony may be admissible to impeach the credibility of the defendant if the defendant elects to testify as part of the defense.

(b) Any motion and supporting document filed pursuant to this section shall be filed under seal and may be unsealed only if the court rules the evidence is admissible and the case proceeds to trial. If the court determines that only part of the evidence contained in the motion is admissible, only that portion of the motion and any supporting document pertaining to the admissible portion may be unsealed. The court shall maintain any document remaining under seal for delivery to the Appellate Court in the event of an appeal.

(c) The court shall seal each court transcript, recording and record of a proceeding of a hearing held pursuant to this section. The court may unseal a transcript, recording or record only if the court rules the evidence in such transcript, recording or record is admissible and the case proceeds to trial. If the court determines that only part of such evidence is admissible, only the portion of such transcript, record or recording pertaining to the admissible evidence may be unsealed.

(d) Evidence described in subsection (a) of this section shall be subject to such other terms and conditions as the court may provide. No defendant, defense counsel or agent of the defendant or defense counsel shall further disclose such evidence disclosed by the state,

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except to persons employed by defense counsel in connection with the investigation or defense of the case or any successor counsel, without the prior approval of the prosecuting authority or the court.

Approved July 6, 2015