

114TH CONGRESS
2D SESSION

S. 2566

To amend title 18, United States Code, to provide sexual assault survivors with certain rights, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 23, 2016

Mrs. SHAHEEN (for herself, Mr. BLUMENTHAL, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to provide sexual assault survivors with certain rights, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sexual Assault Sur-
5 vivors’ Rights Act”.

6 **SEC. 2. DEFINITION OF SEXUAL ASSAULT SURVIVOR.**

7 In this Act, the term “sexual assault survivor” in-
8 cludes a deceased victim of sexual assault.

1 **SEC. 3. SEXUAL ASSAULT SURVIVORS' RIGHTS.**

2 (a) IN GENERAL.—Title 18, United States Code, is
3 amended by adding after chapter 237 the following:

4 **“CHAPTER 238—SEXUAL ASSAULT**
5 **SURVIVORS' RIGHTS**

“Sec.

“3772. Sexual assault survivors' rights.

6 **“§ 3772. Sexual assault survivors' rights**

7 “(a) RIGHTS OF SEXUAL ASSAULT SURVIVORS.—In
8 addition to those rights provided in section 3771, a sexual
9 assault survivor has the following rights:

10 “(1) The right not to be prevented from, or
11 charged for, receiving a medical forensic examina-
12 tion.

13 “(2) The right to—

14 “(A) subject to paragraph (3), have a sex-
15 ual assault evidence collection kit or its pro-
16 bative contents preserved, without charge, for
17 the duration of the maximum applicable statute
18 of limitations;

19 “(B) be informed of any result of a sexual
20 assault evidence collection kit, including a DNA
21 profile match, toxicology report, or other infor-
22 mation collected as part of a medical forensic
23 examination, if such disclosure would not im-

1 pede or compromise an ongoing investigation;
2 and

3 “(C) be informed in writing of policies gov-
4 erning the collection and preservation of a sex-
5 ual assault evidence collection kit.

6 “(3) The right, if the Government intends to
7 destroy or dispose of a sexual assault evidence collec-
8 tion kit or its probative contents before the expira-
9 tion of the maximum applicable statute of limita-
10 tions, to—

11 “(A) upon written request, receive written
12 notification from the prosecutor not later than
13 60 days before the date of the intended destruc-
14 tion or disposal; and

15 “(B) upon written request, be granted fur-
16 ther preservation of the kit or its probative con-
17 tents.

18 “(4) The right to be informed of the rights
19 under this subsection.

20 “(b) APPLICABILITY.—Subsections (b) through (f) of
21 section 3771 shall apply to sexual assault survivors.

22 “(c) DEFINITION OF SEXUAL ASSAULT SURVIVOR.—
23 For purposes of this section, the term ‘sexual assault sur-
24 vivor’ includes a deceased victim of sexual assault.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 2 The table of chapters for part II of title 18, United States
 3 Code, is amended by adding at the end the following:

“238. Sexual assault survivors’ rights 3772”.

4 **SEC. 4. SERVICES TO SURVIVORS.**

5 Section 503(c)(1) of the Victims Rights and Restitu-
 6 tion Act of 1990 (42 U.S.C. 10607(c)(1)) is amended—

7 (1) in subparagraph (A), by inserting “, includ-
 8 ing sexual assault service providers” before the semi-
 9 colon at the end;

10 (2) in subparagraph (C), by inserting “, includ-
 11 ing sexual assault counseling” before the semicolon
 12 at the end; and

13 (3) in subparagraph (D), by inserting “, includ-
 14 ing national and local sexual assault hotlines” before
 15 the period at the end.

16 **SEC. 5. SEXUAL ASSAULT SURVIVORS’ NOTIFICATION**
 17 **GRANTS.**

18 The Victims of Crime Act of 1984 is amended by
 19 adding after section 1404E (42 U.S.C. 10603e) the fol-
 20 lowing:

21 **“SEC. 1404F. SEXUAL ASSAULT SURVIVORS’ NOTIFICATION**
 22 **GRANTS.**

23 “(a) IN GENERAL.—The Attorney General may make
 24 grants as provided in section 1404(e)(1)(A) to States to
 25 develop and disseminate to entities described in subsection

1 (c)(1) written notice of applicable rights and policies for
2 sexual assault survivors.

3 “(b) NOTIFICATION OF RIGHTS.—Each recipient of
4 a grant awarded under subsection (a) shall make its best
5 effort to ensure that each entity described in subsection
6 (c)(1) provides individuals who identify as a survivor of
7 a sexual assault, and who consent to receiving such infor-
8 mation, with written notice of applicable rights and poli-
9 cies regarding—

10 “(1) the right not to be charged fees for or oth-
11 erwise prevented from pursuing a sexual assault evi-
12 dence collection kit;

13 “(2) the right to have a sexual assault medical
14 forensic examination regardless of whether the sur-
15 vivor reports to or cooperates with law enforcement;

16 “(3) the availability of a sexual assault advo-
17 cate;

18 “(4) the availability of protective orders and
19 policies related to their enforcement;

20 “(5) policies regarding the storage, preserva-
21 tion, and disposal of sexual assault evidence collec-
22 tion kits;

23 “(6) the process, if any, to request preservation
24 of sexual assault evidence collection kits or the pro-
25 bative evidence from such kits; and

1 “(7) the availability of victim compensation and
2 restitution.

3 “(c) DISSEMINATION OF WRITTEN NOTICE.—Each
4 recipient of a grant awarded under subsection (a) shall—

5 “(1) provide the written notice described in sub-
6 section (b) to medical centers, hospitals, forensic ex-
7 aminers, sexual assault service providers, State and
8 local law enforcement agencies, and any other State
9 agency or department reasonably likely to serve sex-
10 ual assault survivors; and

11 “(2) make the written notice described in sub-
12 section (b) publicly available on the Internet website
13 of the attorney general of the State.

14 “(d) PROVISION TO PROMOTE COMPLIANCE.—The
15 Attorney General may provide such technical assistance
16 and guidance as necessary to help recipients meet the re-
17 quirements of this section.

18 “(e) INTEGRATION OF SYSTEMS.—Any system devel-
19 oped and implemented under this section may be inte-
20 grated with an existing case management system operated
21 by the recipient of the grant if the system meets the re-
22 quirements listed in this section.

23 “(f) DEFINITION OF SEXUAL ASSAULT SURVIVOR.—
24 For purposes of this section, the term ‘sexual assault sur-
25 vivor’ includes a deceased victim of sexual assault.”.

1 **SEC. 6. WORKING GROUP.**

2 (a) IN GENERAL.—The Attorney General and the
3 Secretary of Health and Human Services (referred to in
4 this section as the “Secretary”) shall establish a joint
5 working group (referred to in this section as the “Working
6 Group”) to develop, coordinate, and disseminate best prac-
7 tices regarding the care and treatment of sexual assault
8 survivors and the preservation of forensic evidence.

9 (b) CONSULTATION WITH STAKEHOLDERS.—The
10 Working Group shall consult with—

11 (1) stakeholders in law enforcement, prosecu-
12 tion, forensic laboratory, counseling, forensic exam-
13 iner, medical facility, and medical provider commu-
14 nities; and

15 (2) representatives from not less than 3 na-
16 tional organizations and State coalitions with dem-
17 onstrated expertise in sexual assault prevention, sex-
18 ual assault advocacy, or representation of sexual as-
19 sault victims, particularly representatives of under-
20 served or ethnic minority communities.

21 (c) MEMBERSHIP.—The Working Group shall be
22 composed of the following members:

23 (1) The Administrator of the Health Resource
24 and Services Administration.

25 (2) The Administrator of the Centers for Medi-
26 care and Medicaid Services.

1 (3) The Director of the Centers for Disease
2 Control and Prevention.

3 (4) The Director of the Indian Health Service.

4 (5) The Director of the Office for Victims of
5 Crime.

6 (6) The Assistant Attorney General for the Of-
7 fice of Justice Programs.

8 (7) The Director of the Office on Violence
9 Against Women.

10 (8) Other governmental or nongovernmental
11 agency heads at the discretion of the Attorney Gen-
12 eral or the Secretary.

13 (d) DUTIES.—The Working Group shall—

14 (1) improve the coordination of the dissemina-
15 tion and implementation of best practices and proto-
16 cols regarding the care and treatment of sexual as-
17 sault survivors and the preservation of evidence to
18 hospital administrators, physicians, forensic exam-
19 iners, and other medical associations and leaders in
20 the medical community;

21 (2) develop and implement, where appropriate,
22 clinical guidelines and other incentives to encourage
23 the adoption and implementation of best practices
24 and protocols regarding the care and treatment of
25 sexual assault survivors and the preservation of evi-

1 dence among hospital administrators, physicians, fo-
2 rensic examiners, and other medical associations and
3 leaders in the medical community;

4 (3) improve the coordination of the dissemina-
5 tion and implementation of best practices regarding
6 the care and treatment of sexual assault survivors
7 and the preservation of evidence to State attorneys
8 general, United States attorneys, heads of State law
9 enforcement agencies, forensic laboratory directors
10 and managers, and other leaders in the law enforce-
11 ment community;

12 (4) develop and implement, where appropriate,
13 incentives to encourage the adoption or implementa-
14 tion of best practices regarding the care and treat-
15 ment of sexual assault survivors and the preserva-
16 tion of evidence among State attorneys general,
17 United States attorneys, heads of State law enforce-
18 ment agencies, forensic laboratory directors and
19 managers, and other leaders in the law enforcement
20 community;

21 (5) collect feedback from stakeholders, practi-
22 tioners, and leadership throughout the Federal and
23 State law enforcement, victim services, forensic
24 science practitioner, and health care communities to
25 inform development of future best practices or clin-

1 ical guidelines regarding the care and treatment of
2 sexual assault survivors; and

3 (6) perform other activities, such as activities
4 relating to development, dissemination, outreach, en-
5 gagement, or training associated with advancing vic-
6 tim-centered care for sexual assault survivors.

7 (e) INITIAL OPERATING PLAN.—Not later than 120
8 days after its first meeting, the Working Group shall sub-
9 mit to the Attorney General, the Secretary, and Congress
10 an operating plan for carrying out the activities of the
11 Working Group.

12 (f) MEETINGS.—The Working Group shall—

13 (1) hold its first meeting not later than 90 days
14 after the date of enactment of this Act; and

15 (2) meet not fewer than 2 times and not more
16 than 5 times each year.

17 (g) REPORT.—Not later than 2 years after the date
18 of enactment of this Act, the Working Group shall submit
19 to the Attorney General, the Secretary, and Congress a
20 report containing the findings and recommended actions
21 of the Working Group.

22 **SEC. 7. SENSE OF CONGRESS.**

23 (a) FINDING.—Congress finds that there is a sub-
24 stantial Federal interest in encouraging more sexual as-

1 assault survivors to come forward and cooperate with law
2 enforcement investigations and prosecutions.

3 (b) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that—

5 (1) to further the Federal interest described in
6 subsection (a), the Attorney General should encour-
7 age State and Federal prosecutors to refrain from
8 prosecuting sexual assault survivors for minor of-
9 fenses such as underage alcohol consumption, solici-
10 tation, or drug use, particularly if the evidence of
11 such an offense is uncovered through a medical fo-
12 rensic examination; and

13 (2) in order to create an environment in which
14 sexual assault survivors feel more comfortable re-
15 porting crimes of sexual violence to law enforcement
16 agencies, survivors should be informed, when appro-
17 priate, that they will not be prosecuted for minor
18 crimes discovered through their participation in
19 medical forensic examinations.

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