

CITY of ALBUQUERQUE

TWENTY SECOND COUNCIL

COUNCIL BILL NO. R-16-143

ENACTMENT NO.

R-2017-022

SPONSORED BY: Patrick Davis

1 RESOLUTION

2 RESOLUTION TO PROVIDE JUSTICE TO VICTIMS OF SEXUAL ASSAULT BY
3 ESTABLISHING TIMEFRAMES AND PRACTICES FOR PROCESSING SEXUAL
4 ASSAULT EVIDENCE KITS BY THE ALBUQUERQUE POLICE DEPARTMENT.
5 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
6 ALBUQUERQUE:

7 WHEREAS, according to a *Special Audit of Untested Sexual Assault Evidence*
8 *Kits in New Mexico* by the Office of the State Auditor, "Sexual assault is a
9 massive problem across the country and in New Mexico, where one in every
10 four women and one in every 20 men experiences an attempted or completed
11 sexual assault in their lifetime and 65% of sexual assault victims are minors";
12 and

13 WHEREAS, there are currently 3,948 Sexual Assault Evidence Kits (SAE Kits)
14 that remain untested by the Albuquerque Police Department; and

15 WHEREAS, testing historically untested SAE Kits aids with investigations,
16 enhances public safety by developing CODIS, honors the victims, and fosters
17 public trust.

18 SECTION 1. The following is adopted and added to the Albuquerque Code of
19 Resolutions at Section 3-11-6:

20 "(A) SHORT TITLE.

21 Section 3-11-6, shall be known as the "Sexual Assault Evidence Kit Testing
22 Resolution".

23 (B) DEFINITIONS.

24 NON-REPORTED SEXUAL ASSAULT EVIDENCE KIT. For purpose of this
25 resolution means a sexual assault evidence recovery kit, commonly known as a
26 "rape kit," that is collected from a victim of sexual assault through a forensic

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1 medical examination where the victim elects, at the time of the examination, not
2 to report the sexual assault offense to a law-enforcement agency.

3 **SEXUAL ASSAULT EVIDENCE KIT.** For purpose of this resolution means
4 evidence collected from a victim of sexual assault through a forensic medical
5 examination where the victim elects, at the time of the examination or at any
6 point while the evidence is in storage pursuant to this resolution, to report the
7 criminal sexual assault offense to a law-enforcement agency, or evidence
8 collected by the Office of the Chief Medical Examiner during death
9 investigations to collect evidence from decedents who may be victims of sexual
10 assault.

11 **(C) STORAGE OF NON-REPORTED SEXUAL ASSAULT EVIDENCE KITS.**

12 Unless otherwise required by state law, the Police Department shall store any
13 non-reported sexual assault evidence recovery kit received for a minimum of
14 two (2) years. After two (2) years, the Department may destroy the non-reported
15 sexual assault evidence recovery kit or, in its discretion or upon request of the
16 victim may elect to retain the non-reported sexual assault evidence recovery kit
17 for a longer period of time. Nothing in this shall be interpreted to require the
18 Police Department to contact a victim who has chosen to remain anonymous
19 with updates on the storage or destruction of an non-reported kit.

20 **(D) SUBMISSION OF EVIDENCE KITS IN CRIMINAL CASES.** Unless otherwise
21 required by state law, when the Albuquerque Police Department receives a
22 sexual assault evidence kit in connection with the investigation of a criminal
23 case, the department must submit evidence from the case within ten (10)
24 business days of receipt to forensic laboratory or a laboratory approved and
25 designated by the Chief of Police.

26 **(E) ANALYSIS OF EVIDENCE.** All new sexual assault evidence kits submitted
27 to the Crime Lab Evidence Room pursuant to Section 2(D) of this resolution will
28 be analyzed within three (3) months of their submission to the Crime Lab
29 Evidence Room while concurrently, the Crime Lab develops a plan and
30 identifies resources to clear the untested sexual assault evidence kits from their
31 Evidence Room.

32 **(F)** The three (3) month time frame set forth in Section 2(E) will go into effect
33 when the APD Crime lab is staffed with ten (10) full time qualified analysts, but

1 no later than October of 2018. APD will report to the Council quarterly on the
2 progress toward this goal.

3 (G) AUTHORITY AND RESPONSIBILITY. The Chief of Police is directed to
4 execute agreements or contracts with forensic laboratories to ensure that
5 sufficient testing resources are available to adhere to the testing schedule in
6 Section 2(E).

7 (H) REPORTING. The Chief of Police shall, at the end of each fiscal year,
8 publish online and in an annual report the number of rape kits collected in
9 connection with a criminal case, the average number of days from submission
10 to testing and a count of the number of untested kits pending either submission
11 or testing.”

12 SECTION 2. SEVERABILITY. If any section, paragraph, sentence, clause,
13 word, or phrase of this resolution is for any reason held to be invalid or
14 unenforceable by any court of competent jurisdiction, such decision shall not
15 affect the validity of the remaining provisions of this resolution. The Council
16 hereby declares that it would have passed this resolution and each section,
17 paragraph, sentence, clause word or phrase thereof irrespective of any
18 provisions being declared unconstitutional or otherwise invalid.

19 SECTION 3. COMPILATION. The resolution set forth in Section 2 above shall
20 amend, be incorporated in and made part of the Albuquerque Code of
21 Resolutions.

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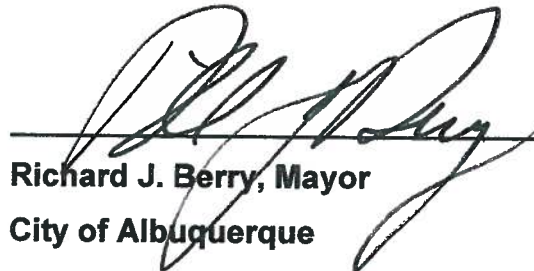
1 PASSED AND ADOPTED THIS 6th DAY OF March, 2017
2 BY A VOTE OF: 9 FOR 0 AGAINST.
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8 Isaac Benton, President
9 City Council
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12 APPROVED THIS _____ DAY OF March 17, 2017
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15 Bill No. R-16-143
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19 Richard J. Berry, Mayor
20 City of Albuquerque
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23 ATTEST:
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26 Natalie Y. Howard, City Clerk
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