



Legislation Text

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CITY of ALBUQUERQUE
TWENTY SECOND COUNCIL

COUNCIL BILL NO. R-16-143 ENACTMENT NO. _____

SPONSORED BY: Patrick Davis

RESOLUTION

Resolution To Provide Justice To Victims Of Sexual Assault By Establishing Timeframes And Practices For Processing Sexual Assault Evidence Kits By The Albuquerque Police Department
(Davis)

RESOLUTION TO PROVIDE JUSTICE TO VICTIMS OF SEXUAL ASSAULT BY ESTABLISHING TIMEFRAMES AND PRACTICES FOR PROCESSING SEXUAL ASSAULT EVIDENCE KITS BY THE ALBUQUERQUE POLICE DEPARTMENT.

BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

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

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

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

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

“(A) SHORT TITLE.

Section 3-11-6, shall be known as the “Sexual Assault Evidence Kit Testing Resolution”.

(B) DEFINITIONS.

NON-REPORTED SEXUAL ASSAULT EVIDENCE KIT. For purpose of this resolution means a sexual assault evidence recovery kit, commonly known as a “rape kit,” that is collected from a victim of sexual assault through a forensic medical examination where the victim elects, at the time of the examination, not to report the sexual assault offense to a law-enforcement agency.

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

(C) STORAGE OF NON-REPORTED SEXUAL ASSAULT EVIDENCE KITS. Unless otherwise required by state law, the Police Department shall store any non-reported sexual assault evidence recovery kit received for a minimum of two (2) years. After two (2) years, the Department may destroy the non-reported sexual assault evidence recovery kit or, in its discretion or upon request of the victim may elect to retain the non-reported sexual assault evidence recovery kit for a longer period of time. Nothing in this shall be interpreted to require the Police Department to contact a victim who has chosen to remain anonymous with updates on the storage or destruction of an non-reported kit.

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

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

(F) The three (3) month time frame set forth in Section 2(E) will go into effect when the APD

Crime lab is staffed with ten (10) full time qualified analysts, but no later than October of 2018. APD will report to the Council quarterly on the progress toward this goal.

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

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

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

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

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