

HOUSE No. 3454

The Commonwealth of Massachusetts

PRESENTED BY:

Timothy J. Toomey, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the submission and analysis of sexual assault forensic evidence.

PETITION OF:

NAME:

Timothy J. Toomey, Jr.

DISTRICT/ADDRESS:

26th Middlesex

HOUSE No. 3454

By Mr. Toomey of Cambridge, a petition (accompanied by bill, House, No. 3454) of Timothy J. Toomey, Jr., relative to the submission and analysis of sexual assault forensic evidence. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to the submission and analysis of sexual assault forensic evidence.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith an expeditious review of the backlog of sexual assault evidence, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 22E of the General Laws is hereby amended by inserting after
2 section 15 the following section:-

3 Section 16. (a) As used in this section, the following words shall, unless the context
4 clearly indicates otherwise, have the following meanings:-

5 “Crime laboratory”, a laboratory or facility that conducts forensic and DNA analysis in
6 criminal investigations, including, but not limited, to the Boston police department crime
7 laboratory, and a crime laboratory authorized under section 7.

8 “Law enforcement agency”, a municipal, county, or state law enforcement agency.

9 “Sexual assault evidence”, evidence collected during the physical examination of an
10 individual after a sexual assault or rape including, but not limited to, evidence collected through
11 use of the standardized kit for the collection and preservation of evidence in rape cases pursuant
12 to section 97B of chapter 41, irrespective of whether the sexual assault or rape was reported to
13 law enforcement officials.

14 (b) A law enforcement agency shall submit sexual assault evidence to a crime laboratory
15 within 30 days of receiving such evidence from the hospital or other facility at which it was
16 collected.

17 (c) Where sexual assault evidence includes a DNA sample, the crime laboratory that
18 received the evidence shall conduct a DNA analysis of the sample and make the resulting DNA
19 record available to the appropriate law enforcement agency within 180 days of submission by the
20 law enforcement agency.

21 (d) The failure of a law enforcement agency or a crime laboratory to satisfy the
22 requirements of this section shall not be a defense to a prosecution for any crime to which a
23 DNA sample may relate.

24 SECTION 2. (a) As used in this section, the following words shall, unless the context
25 clearly indicates otherwise, shall have the following meanings:-

26 “Crime laboratory”, a laboratory or facility that conducts forensic and DNA analysis in
27 criminal investigations, including but not limited to the Boston police department crime
28 laboratory, and a crime laboratory authorized under section 7 of chapter 22E of the General
29 Laws.

30 “Law enforcement agency”, a municipal, county, or state law enforcement agency.

31 “Sexual assault evidence”, evidence collected during the physical examination of an
32 individual after a sexual assault or rape including, but not limited to, evidence collected through
33 use of the standardized kit for the collection and preservation of evidence in rape cases pursuant
34 to section 97B of chapter 41 of the General Laws, irrespective of whether the sexual assault or
35 rape was reported to law enforcement officials.

36 (b) Notwithstanding any general or special law to the contrary each law enforcement
37 agency shall submit a written notice to the secretary of public safety and security indicating the
38 quantity of sexual assault evidence in their possession that has not been previously submitted to a
39 crime laboratory for analysis on or before July 1, 2015.

40 (c) A law enforcement agency in possession of sexual assault evidence that has not
41 previously been submitted to a crime laboratory for analysis shall ensure that such evidence is
42 submitted to a crime laboratory within 180 days of the effective date of this act.

43 (d) On or before January 1, 2016, the secretary of public safety and security shall prepare
44 and transmit a report to the governor, the attorney general, the Massachusetts District Attorneys
45 Association, the speaker of the house of representatives, the president of the senate and the clerks
46 of the house of representatives and senate that shall include, but not be limited to: (1) a plan and
47 timeline for the DNA analysis of all DNA samples contained in sexual assault evidence
48 submitted under subsection (c); (2) a summary of the inventory of DNA samples received; and
49 (3) a request for funding and other resources necessary to implement the proposed plan and
50 timeline for DNA analysis of that evidence.

51 (e) The secretary of public safety and security may promulgate rules and regulations to
52 carry out this section.

53 SECTION 3. The requirements of section 16 of chapter 22E of the General Laws shall
54 apply to all sexual assault evidence collected fewer than 30 days prior to the effective date of this
55 act.