

SENATE No. 1174

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

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 enhancing sexual assault evidence kit collection.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/3/2017</i>
<i>Kathleen O'Connor Ives</i>	<i>First Essex</i>	<i>4/6/2017</i>

SENATE No. 1174

By Ms. Creem, a petition (accompanied by bill, Senate, No. 1174) of Cynthia S. Creem and Elizabeth A. Malia for legislation to enhance sexual assault evidence kit collection. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1134 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to enhancing sexual assault evidence kit collection.

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: Section 18¾ of chapter 6A of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by inserting the following new subsection:-

3 (11) to develop and implement, in consultation with the department of public health,
4 statewide policies and procedures, including a uniform protocol, for transporting sexual assault
5 evidence collection kits directly from hospitals to appropriate testing facilities.

6 SECTION 2: Section 2VVVV of chapter 29 of the General Laws, as appearing in section
7 41 of chapter 133 of the Acts of 2016, is hereby amended by inserting, after the words “local
8 governmental entities” the following language:- “and fees, fees-for-service reimbursements, or
9 other assessments collected by the Massachusetts SANE program” and by inserting at the end

10 thereof the following language: “Nothing in this section should be interpreted to supplant the
11 commonwealth’s obligation to support forensic evidence collection.”

12 SECTION 3: Section 220 of chapter 111 of the General Laws, as so appearing, is hereby
13 amended by inserting the following new definitions:-

14 “Acute care hospital” shall mean a hospital subject to licensing pursuant to sections 51
15 through 53, inclusive, of chapter 111, but shall not include the following:

- 16 (1) Psychiatric Hospitals as defined in 42 CFR 412.23(a);
- 17 (2) Rehabilitation Hospitals as defined in 42 CFR 412.23(b);
- 18 (3) Alcohol/Drug Hospitals as defined in 42 CRF 412.23(c); and
- 19 (4) Chronic Care Hospitals.

20 “Program Protocols”, the most current program protocols prepared by the Massachusetts
21 Sexual Assault Nurse Examiner program for the treatment and examination of both pediatric and
22 adult sexual assault victims.

23 “SANE designated site,” a site designed by the department to have Massachusetts SANE
24 nurses contracted or otherwise employed by the department to respond directly to victims of
25 sexual assault at said designated site.

26 SECTION 4: Said section 220 is hereby amended by inserting, after the words “site
27 designation.” in line 48 the following words:-“The department shall examine the regional needs
28 of the commonwealth for sexual assault nurse examiner services and for sexual assault
29 counselors trained as medical advocates and expand sexual assault nurse examiner services into

30 underserved regions. The department shall also ensure, subject to appropriation, that adequate
31 numbers of sexual assault nurse examiners are made available in all regions of the
32 Commonwealth to meet the needs of victims.”

33 SECTION 5: Said section 220 is hereby amended by inserting, at the end thereof, the
34 following new subsections:-

35 (i) Acute care hospitals shall make program protocols available both electronically and in
36 hard-copy to sexual assault nurse examiners and all other nurses and physicians collecting
37 evidence for inclusion in a sexual assault evidence collection kit or toxicology kit.

38 (j) In consultation with the advisory board, the department shall promulgate regulations
39 requiring all teaching hospitals and academic medical centers, as defined by the center for health
40 information and analysis hospital cohorts, to be SANE designated sites.

41 (k) In consultation with the advisory board, the department shall promulgate regulations
42 requiring appropriate emergency department personnel, as defined by the department, at all acute
43 care hospitals that treat sexual assault victims, but are not SANE designated sites, to receive, at a
44 minimum, bi-annual training by the department in the program protocols.

45 (l) In consultation with the advisory board, the department shall amend all applicable
46 contracts or memoranda of agreement to require appropriate emergency department personnel, as
47 defined by the department, at all SANE designated sites to receive, at a minimum, bi-annual
48 training by the department in the program protocols.

49 (m) In consultation with the advisory board, the department shall establish a fee structure
50 relative to SANE site designation and SANE operated training programs. Fees shall be payable

51 to the Sexual Assault Nurse Examiner Trust Fund established in section 2VVVV of chapter 29,
52 as appearing in section 41 of chapter 133 of the Acts of 2016 . Nothing in this section should be
53 interpreted to supplant the commonwealth’s obligation to support forensic evidence collection.

54 (n) The department shall publicly report on hospital training and designation compliance
55 rates pursuant to this section.

56 SECTION 6: Notwithstanding the provisions of any general or special law to the
57 contrary, the executive office of public safety and security is hereby authorized and directed to
58 conduct a comprehensive study related to sexual assault evidence collection kits. Said study shall
59 include, but not be limited to, a study on the (i) effectiveness and cost of a system allowing for
60 the online completion of provider sexual crime reports, with electronic notification, after each
61 said report is submitted, to said office and to the local police department; (ii) feasibility and cost
62 of a web-based tracking system to allow agencies involved in the response to and prosecution of
63 rapes and sexual assault to track sexual assault evidence collection kits, pediatric sexual assault
64 evidence collection kits, and toxicology kits using a machine-scannable bar code number
65 uniquely assigned to each rape kit, so their status may be known at all times; (iii) feasibility and
66 cost of an automated 24-hour hotline for sexual assault survivors to determine the status and
67 location of their kits; (iv) effectiveness and cost of having designated state employees or state
68 police transport rape kits from hospitals to the appropriate testing facility; (iv) feasibility and cost
69 of any necessary statutory or regulatory changes required to allow for transport of sexual assault
70 evidence collection kits and toxicology kits by mail, delivery service, or private courier. Prior to
71 issuing a report, the executive office shall hold a hearing to allow for public comment. A report
72 of the study’s findings shall be filed with the clerks of the house of representatives and senate by
73 December 31, 2018.

74 SECTION 7: The executive office of public safety and security shall develop and
75 implement a pilot program utilizing a rapid DNA service protocol to assist in the collection and
76 analysis of forensic evidence from alleged victims of sexual assault. In developing such a
77 program, the executive office of public safety and security shall examine existing programs,
78 including the program implemented in California, as a model.