

Amendment to HB 378

1 Amend the title of the bill by replacing it with the following:

2
3 AN ACT expanding the information provided to survivors of sexual assault regarding their
4 existing rights.
5

6 Amend the bill by replacing all after the enacting clause with the following:

7
8 1 Sexual Assault Survivors' Rights. Amend RSA 21-M:18 to read as follows:

9 21-M:18 Sexual Assault Survivors' Rights.

10 I. In addition to the rights of a crime victim provided in RSA 21-M:8-k, a sexual assault
11 survivor shall have the following rights:

12 (a) The right not to be prevented from, or charged for, receiving a medical examination,
13 **including any individual element or elements of a state sexual assault evidence collection**
14 **kit.**

15 (b) The right to:

16 (1) Have a sexual assault evidence collection kit or its probative contents preserved,
17 without charge, for the duration of the maximum applicable statute of limitations or 20 years,
18 whichever is shorter;

19 (2) Be informed of any result of a sexual assault evidence collection kit, including a
20 DNA profile match, toxicology report, or other information collected as part of a medical forensic
21 examination, if such disclosure would not impede or compromise an ongoing investigation; and

22 (3) Be informed in writing of policies governing the collection and preservation of a
23 sexual assault evidence collection kit, **including the information required by RSA 21-M:19, IV.**

24 (c) The right, if the state intends to destroy or dispose of a sexual assault evidence
25 collection kit or its probative contents before the expiration date of the maximum applicable statute
26 of limitations, to:

27 (1) Upon written request, receive written notification from the prosecutor or
28 appropriate state official with custody not later than 60 days before the date of the intended
29 destruction or disposal; and

30 (2) Upon written request, be granted further preservation of the kit or its probative
31 contents.

32 (d) The right to be informed of the rights under this section.

1 II. In this ~~[subdivision,]~~ **chapter, "sexual assault survivor" means:**

2 (a) **Any individual who asserts that they have been subject to an offense under**
3 **RSA 632-A:2, 632-A:3, or 632-A:4 including, but not limited to penetrative or non-penetrative**
4 **sexual assault or the administering of a drug or other intoxicating substance as part of a**
5 **sexual assault which falls under the referenced statutes.**

6 (b) **An individual reporting an attempted rape who asserts sexual contact as**
7 **defined by RSA 632-A:1, IV and described within RSA 632-A:4 shall not be denied survivor**
8 **rights because of lack of knowledge of correct legal terminology.**

9 (c) "Sexual assault survivor" includes a deceased victim of sexual assault.

10 2 New Paragraphs; Notification of Sexual Assault Survivors' Rights. Amend RSA 21-M:19 by
11 inserting after paragraph II the following new paragraphs:

12 III. The attorney general shall post prominently on the attorney general's website the
13 document or documents required by RSA 21-M:8-d, II which summarize the policies to inform a
14 sexual assault survivor, listed entities, and the general public regarding:

15 (a) Rights under this section and RSA 21-M:18, I.

16 (b) Policies governing the collection and preservation of a sexual assault evidence
17 collection kit established in RSA 21-M:8-d, I including:

18 (1) How long after an assault samples, including blood, urine and other evidence, are
19 generally collected;

20 (2) The evidentiary value of all clothing and other material present at the time of
21 assault; and

22 (3) The ability to collect evidence for an assault which occurred in a location outside
23 of New Hampshire.

24 (c) That sexual contact which would be considered aggravated felonious sexual assault if
25 it was penetration is misdemeanor sexual assault.

26 IV. A health care provider, law enforcement officer, or other employee of an entity listed in
27 paragraph I, who in the course of their professional responsibilities has contact with a sexual assault
28 survivor, shall provide the individual with the document intended for sexual assault survivors
29 provided by the attorney general pursuant to paragraph III or an internally created document which
30 contains, at minimum, the same material information.

31 3 Standardized Rape Protocol and Kit and Domestic Violence Protocol. Amend RSA 21-M:8-d to
32 read as follows:

33 21-M:8-d Standardized Rape Protocol and Kit and Domestic Violence Protocol.

34 I. The department of justice shall adopt, pursuant to RSA 541-A, and implement rules
35 establishing a standardized rape protocol and kit and a domestic violence protocol to be used by all
36 physicians or hospitals in this state when providing physical examinations of victims of alleged
37 sexual offenses and alleged domestic abuse, as defined in RSA 173-B:1.

1 ***II. The department of justice shall create a document summarizing the information***
2 ***required by RSA 21-M:19, III so that victims of sexual assault, health care providers and***
3 ***the general public can easily access the details of the protocols required in paragraph I***
4 ***necessary to protect the rights of sexual assault survivors.***

5 4 Effective Date. This act shall take effect 60 days after its passage.

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AMENDED ANALYSIS

This bill expands the information provided to sexual assault survivors, defines sexual assault survivor for purposes of receiving such information, and requires certain entities to provide the notice of rights to sexual assault survivors.