

STATE OF MICHIGAN
**Department of
Health & Human
Services**

www.michigan.gov

Nick Lyon, Interim Director

**MICHIGAN DOMESTIC
AND SEXUAL VIOLENCE
PREVENTION AND
TREATMENT BOARD**

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Honorable Jeffrey L. Sauter
Jacqueline A. Schafer

Debi Cain, Executive Director



RICK SNYDER, Governor

April 15, 2015

Michigan Law Enforcement Agency:

Beginning no later than September 30, 2015, law enforcement agencies are required to provide sexual assault victims a written copy of, or access to, the information required by the Sexual Assault Victim's Access Justice Act, PA 319 of 2014 "the Act"). The Act requires the Michigan Domestic and Sexual Violence Prevention and Treatment Board (the Board) to develop two products by June of 2015 to assist your agency in complying with these requirements.

Accordingly, these product are enclosed/attached.

Sample Victim Notice Cards: Within 24 hours after the initial contact between a sexual assault victim and the investigating law enforcement agency, that agency must give the sexual assault victim a written copy of, or access to, the notices required by the Act. The Board has drafted recommended language with the required information in several formats: (1) language that can be added to an existing victim rights notice card, (2) a standalone victim notice card with only the information required under the Act and the Crime Victim's Rights Act, and (3) a sample victim notice card that includes notices for the Act, the Crime Victim's Rights Act, and the domestic violence notices required by MCL 764.15c. Your agency can comply with the Act using any of these formats.

Informational Handout to Explain Forensic Testing Results: If a sexual assault victim is provided with information about forensic testing results under the Act, law enforcement agencies are required to provide that victim with a copy of, or access to, the information handout developed by the Board. This handout, titled "Sexual Assault Evidence Kit Testing in Michigan: What Victims Have a Right to Know," was developed in consultation with the department of the state police.

On behalf of the Board, I am pleased to provide these resources to you. These products will also be made available to download from the Board's website in the coming months.

If you have any questions, please feel free to contact Gail Krieger, Staff Attorney for the Board, at KriegerG@michigan.gov, or Lore Rogers, Staff Attorney for the Board, at RogersL4@michigan.gov.

Sincerely,

A handwritten signature in blue ink that reads "Debi Cain".

Debi Cain,
Executive Director

Alternative 1: Sexual Assault Victim Notices to add to an Existing Victim's Rights Card

1. Contact information for a local community based sexual assault victim services program, if available, and contact information for the local Sexual Assault Nurse Examiner (SANE) program or local emergency room.
2. The notices required by the Crime Victim's Rights Act, MCL 780.751 et. seq.
3. Statements substantially similar to the following:
 - a. You can have a sexual assault medical forensic examination and have evidence collected using a sexual assault evidence kit even if you do not want to participate in the criminal justice system or cooperate with law enforcement.
 - b. You cannot be billed for the cost of administrating the sexual assault evidence kit. If you receive a bill for these services, contact the Michigan Crime Victim Services Commission at 517-373-7373.
 - c. You have the right to ask the investigating law enforcement agency for the contact information for the detective or investigating officer assigned to the case, the current status of the case, whether the case has been submitted to the prosecuting attorney for review, and whether the case has been closed and the documented reason for closure.
 - d. If you had a sexual assault evidence kit collected and released to law enforcement, you have a right to ask the investigating law enforcement agency for the following information: when the sexual assault evidence kit was sent to a forensic laboratory for testing; whether a DNA profile was obtained from the sexual assault evidence kit; whether a DNA profile was entered into CODIS; and whether a DNA profile resulted in a CODIS hit.
 - e. Your legal rights include the right to go to court and file a petition requesting a personal protection order (PPO)/restraining order to protect you from the perpetrator. The PPO could order the perpetrator not to have contact with you and include other specific conditions.

Alternative 2: Sample Pocket Sized Victim Notice Card bi-fold (outside)

Sexual Assault Victim's Access to Justice Act, MCL 752.953, including the Crime Victim's Rights Act, MCL 780.751 et. seq.

<p>Resources</p> <p>Emergency Medical Services [Contact Information]</p> <p>Sexual Assault Medical Forensic Examination [Contact Information]</p> <p>Sexual Assault Crisis Program [Contact Information] National Sexual Assault Hotline: 800-656-HOPE (4673)</p> <p>Domestic Violence Program [Contact Information] National Domestic Violence Hotline: 800-799-SAFE (7233)</p> <p>Information about emergency shelter, counseling services, and the legal rights of domestic violence and sexual assault victims is available from these resources.</p> <p>Other Victim Resources [Contact Information] [Contact Information] [Contact Information]</p>	<p>[Sample Police Department]</p> <p>Rights and Resources for Victims of Sexual Assault</p> <table border="1"><tr><td>Responding Officer</td><td>Badge Number</td></tr><tr><td>Responding Officer</td><td>Badge Number</td></tr><tr><td>Incident Number</td><td></td></tr></table>	Responding Officer	Badge Number	Responding Officer	Badge Number	Incident Number	
Responding Officer	Badge Number						
Responding Officer	Badge Number						
Incident Number							

Pg. 2—Sexual Assault Victims Access to Justice Act Products

Developed by the Michigan Domestic and Sexual Violence Prevention and Treatment Board to comply with MCL 752.953(3).

Alternative 2: Sample Pocket Sized Victim Notice Card Bi-fold (inside)

Sexual Assault Victim's Access to Justice Act, MCL 752.953, including the Crime Victim's Rights Act, MCL 780.751 et. seq.

Information for all Crime Victims

1. You may be eligible for crime victim's compensation benefits.

To apply, fill out an application available from the **Crime Victim Services Commission at 517-373-7373**.

2. If you would like to be notified of an arrest in your case or the release of the person arrested or both, you should call **[law enforcement agency and telephone number]** and inform them.

3. If you are not notified of an arrest in your case, you may call this law enforcement agency at **[law enforcement agency's telephone number]** for the status of the case.

4. You can contact the **[prosecuting attorney's office name and phone number]** to obtain information about victim's rights.

[Responding Police Agency]

[Address/Phone Number of Responding Police Agency]

[Prosecuting Attorney's Office]

[Address/Phone Number of Prosecutor's office]

Crime Victim's Services Commission

P.O. Box 30026, Lansing, MI 48909
1-517-373-7373

Information for Victims of Sexual Assault

1. You can have a sexual assault medical forensic examination and have evidence collected using a sexual assault evidence kit even if you do not want to participate in the criminal justice system or cooperate with law enforcement.

2. You cannot be billed for the cost of administering the sexual assault evidence kit. If you receive a bill for these services, contact the Michigan Crime Victim Services Commission at 517-373-7373.

3. You have the right to ask the investigating law enforcement agency for the contact information for the detective or investigating officer assigned to the case, the current status of the case, whether the case has been submitted to the prosecuting attorney for review, and whether the case has been closed and the documented reason for closure.

4. If you had a sexual assault evidence kit collected and released to law enforcement, you have a right to ask the investigating law enforcement agency for the following information: when the sexual assault evidence kit was sent to a forensic laboratory for testing; whether a DNA profile was obtained from the sexual assault evidence kit; whether a DNA profile was entered into CODIS; and whether a DNA profile resulted in a CODIS hit.

5. Your legal rights include the right to go to court and file a petition requesting a personal protection order (PPO)/restraining order to protect you from the perpetrator. The PPO could order the perpetrator not to have contact with you and include other specific conditions.

Alternative 3: Sample Pocket Sized Victim Notice Card Tri-Fold (outside)

Sexual Assault Victim's Access to Justice Act, MCL 752.953, the Crime Victim's Rights Act, MCL 780.751 et. seq, Domestic Violence Notices, MCL 764.15c

Law Enforcement Information

[Responding Police Agency]
[Address/Phone Number of Responding Police Agency]

Responding Officer	Badge Number
Responding Officer	Badge Number
Incident Number	

[Prosecuting Attorney's Office]
[Address/Phone Number of Prosecutor's office]
Crime Victim's Services Commission
P.O. Box 30026, Lansing, MI 48909
1-517-373-7373

Resources

Emergency Medical Services
[Contact Information]

Sexual Assault Medical Forensic Examination
[Contact Information]

Sexual Assault Crisis Program
[Contact Information]
National Sexual Assault Hotline: 800-656-HOPE (4673)

Domestic Violence Program
[Contact Information]
National Domestic Violence Hotline: 800-799-SAFE (7233)

Information about emergency shelter, counseling services, and the legal rights of domestic violence and sexual assault victims is available from these resources.

Other Victim Resources
[Contact Information]
[Contact Information]
[Contact Information]
[Contact Information]

[Sample Police Department]

**Rights and Resources
for
Victims of Crimes**

Alternative 3: Sample Pocket Sized Victim Notice Card Tri-Fold (inside)

Sexual Assault Victim's Access to Justice Act, MCL 752.953, the Crime Victim's Rights Act, MCL 780.751 et. seq, Domestic Violence Notices, MCL 764.15c

Information for all Crime Victims

1. You may be eligible for crime victim's compensation benefits. To apply, fill out an application available from the **Crime Victim Services Commission at 517-373-7373**, if you would like to be notified of an arrest in your case or the release of the person arrested or both, you should call **[law enforcement agency and telephone number]** and inform them.
3. If you are not notified of an arrest in your case, you may call this law enforcement agency at **[law enforcement agency's telephone number]** for the status of the case.
4. You can contact the **[prosecuting attorney's office name and phone number]** to obtain information about victim's rights.

Information for Victims of Domestic Violence

1. You may obtain a copy of the police incident report for your case by contacting the law enforcement agency at the phone number previously shown.
2. Your legal rights include the right to go to court and file a petition requesting a personal protection order to protect you or other members of your household from domestic abuse which could include restraining or enjoining the abuser from doing the following:
 - Entering onto premises.
 - Assaulting, attacking, beating, molesting, or wounding you.

Information for Victims of Sexual Assault

1. You can have a sexual assault medical forensic examination and have evidence collected using a sexual assault evidence kit even if you do not want to participate in the criminal justice system or cooperate with law enforcement.
 2. You cannot be billed for the cost of administering the sexual assault evidence kit. If you receive a bill for these services, contact the Michigan Crime Victim Services Commission at 517-373-7373.
 3. You have the right to ask the investigating law enforcement agency for the contact information for the detective or investigating officer assigned to the case, the current status of the case, whether the case has been submitted to the prosecuting attorney for review, and whether the case has been closed and the documented reason for closure.
 4. If you had a sexual assault evidence kit collected and released to law enforcement, you have a right to ask the investigating law enforcement agency for the following information: when the sexual assault evidence kit was sent to a forensic laboratory for testing; whether a DNA profile was obtained from the sexual assault evidence kit; whether a DNA profile was entered into CODIS; and whether a DNA profile resulted in a CODIS hit.
 5. Your legal rights include the right to go to court and file a petition requesting a personal protection order (PPO)/restraining order to protect you from the perpetrator. The PPO could order the perpetrator not to have contact with you and include other specific conditions.
- Removing minor children from you, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.
 - Engaging in stalking behavior.
 - Purchasing or possessing a firearm.
 - Interfering with your efforts to remove your children or personal property from premises that are solely owned or leased by the abuser.
 - Interfering with you at your place of employment or education or engaging in conduct that impairs your employment relationship or your employment or educational environment.
 - Engaging in any other specific act or conduct that imposes upon or interferes with your personal liberty or that causes a reasonable apprehension of violence.
 - Having access to information in records concerning any minor child you have with the abuser that would inform the abuser about your address or telephone number, the child's address or telephone number, or your employment address.
- Your legal rights also include the right to go to court and file a motion for an order to show cause and a hearing if the abuser or perpetrator is violating the protection order and has not been arrested.

SEXUAL ASSAULT EVIDENCE KIT TESTING IN MICHIGAN: WHAT VICTIMS HAVE THE RIGHT TO KNOW

A Victim's Right to Information

Under Michigan law, a sexual assault victim has the right to know:

- **When the Sexual Assault Evidence Kit was sent to a crime lab for testing;**
- **Whether a DNA profile (DNA evidence) was obtained from the Sexual Assault Evidence Kit;**
- **Whether a DNA profile was entered into CODIS (a case evidence database);**
- **Whether a DNA profile resulted in a CODIS hit.**

The police agency investigating the sexual assault is required to provide this information to the victim, if available.

However, in some circumstances, the police agency may wait to share it if providing the information would somehow impede or compromise the investigation. MCL 752.956.

What is a Sexual Assault Medical Forensic Exam?

This sexual assault medical forensic exam includes a collection of a medical history, a physical examination, treatment for injury, and preventative treatment for pregnancy and/or sexually transmitted diseases. If a victim consents, forensic evidence is also collected through the use of a sexual assault evidence kit. This exam is typically performed at a local hospital emergency room or by a Sexual Assault Nurse Examiner (SANE) Program. Healthcare providers must offer the exam to any person indicating that they have been sexually assaulted in the previous 120 hours (5 days). MCL 333.21527.

What is a Sexual Assault Evidence Kit (SAEK)?

A Sexual Assault Evidence Kit, or SAEK, is a box that contains swabs, envelopes, instructions and forms. If a victim agrees, the SAEK is used during a sexual assault medical forensic exam to collect possible DNA evidence. DNA evidence can be found in semen, saliva, hairs, or blood that may be on a victim's body or on items like clothing. This evidence may be used in the criminal investigation and prosecution.

Does a victim have to pay to have a SAEK collected or tested?

No. It is against the law to require a victim to pay for the cost of collecting or testing evidence in a SAEK. MCL 18.355a.

Where does the SAEK go after collection?

If the victim gives permission and signs a form to release the SAEK, the SAEK will be given to the police. Police then send the SAEK to a crime lab for testing. If the victim does not want to release the SAEK, the healthcare provider must store it for one year.[†] In most cases, a SAEK stored by a healthcare provider cannot be given to police or tested unless the victim later decides to release it. MCL 752.933.

Are all released SAEKs sent to a crime lab for testing?

Yes.[‡] If a victim has released the SAEK to police, the police are required to send the SAEK to a crime lab for testing within a certain period of time, typically two weeks. A crime lab has 90 days to test the evidence. This can take longer if the process involves more than one police agency or the lab has limited resources. MCL 752.934.

A victim has the right to ask when the sexual assault kit was sent to a crime lab for testing.

What will the crime lab test for?

A scientist will test the samples collected in the SAEK for DNA evidence. If there is enough DNA in the sample, a DNA profile is developed. A DNA profile is like a fingerprint that can help identify a suspect. In some cases, a DNA profile may also identify the DNA of a consensual sexual partner.

A victim has the right to ask police if DNA profile (DNA evidence) was obtained from the Sexual Assault Evidence Kit.

[†] The mandate to store unreleased SAEKs for one year only applies to SAEKs collected after March 31, 2015.

[‡] Only SAEKs released after March 1, 2015 are mandated to be submitted to a crime laboratory for testing.

What if there is no DNA evidence?

Lack of DNA evidence does not mean that the sexual assault didn't happen. There are many reasons why DNA may not be present. As one example, the offender may not have left any DNA or the offender may have left too little DNA.

DNA evidence is not always necessary for a sexual assault conviction. DNA is only one piece of evidence in an investigation. Other types of evidence include victim and witness statements, pictures of injuries, phone records, and other physical evidence.

What if there is DNA evidence?

If a crime lab detects enough DNA evidence, it will develop a DNA profile (DNA fingerprint) and enter that DNA profile into a national database called CODIS.

A victim has the right to ask if a DNA profile was entered into CODIS.

What is CODIS?

The COmbined DNA Index System, or CODIS, is a system of national, state, and local databases administered by the FBI. CODIS allows crime labs to compare SAEK evidence to DNA profiles from known criminal offenders and arrestees. They can also compare SAEK evidence to DNA evidence from unknown suspects in other crimes. CODIS has proven crucial in solving crimes by:

- Identifying unknown suspects;
- Linking DNA profiles from more than one crime to find serial offenders; and
- Eliminating suspects.

What is a 'hit' in CODIS?

When a DNA profile is put in CODIS it is compared to offender profiles that are already in CODIS. When a DNA profile is linked to an offender or a different crime scene it is called a 'hit.' There are two types of hits: (1) a 'hit' to an identified offender; or (2) a 'hit' to a DNA profile developed from crime scene evidence where the offender is still unknown.

A victim has the right to ask police whether a DNA profile resulted in a CODIS 'hit.'

A 'hit' in CODIS does not necessarily mean that the case is solved or that the case will automatically go to trial. DNA is only one piece of evidence in an investigation. If the offender's name is unknown, a 'hit' that leads to an offender identity can be very important. Other times, a 'hit' can add to existing evidence and build a stronger case by identifying a serial offender.

Does a victim's DNA go into CODIS?

No. The CODIS database is made up of DNA profiles from individuals convicted of or, in some states, arrested for particular crimes. It also includes DNA profiles of the possible perpetrators from crime scene evidence.

What about the DNA profile of a consensual sexual partner?

If the DNA profile identifies a recent consensual sexual partner, rather than the offender, that profile may be removed from CODIS. A victim can talk to the police about this process.

How can a victim find out where the SAEK is or DNA testing results?

A victim can contact the police investigating the sexual assault. If the police do not provide the information, a victim can contact a local community based sexual assault program or the prosecutor's office for assistance.

Incident Number/Case Number	
Law Enforcement Agency/Investigator Name	Phone
Law Enforcement Agency/Investigator Name	Phone
Sexual Assault Services Program	Phone

National Sexual Assault Hotline: 800-656-HOPE (4673)