



MICHIGAN STATE POLICE LEGAL UPDATE

No. 115

April 2, 2015

This update is published by the Michigan State Police, Office of the Director, Legal Resource and Education Unit. Questions and comments may be directed to MSPLegal@michigan.gov. Past editions can be found at www.michigan.gov/msp-legal.

CRIMINAL LAW AND PROCEDURE MANUAL

The third edition of *Michigan Criminal Law and Procedure: A Manual for Michigan Police Officers* is now available for purchase in print and eBook formats.

The manual is published by [Kendall Hunt Publishing Co.](http://www.kendallhunt.com/michigan_criminal_law/) Copies may be ordered online at https://www.kendallhunt.com/michigan_criminal_law/ or by calling Kendall Hunt Customer Service at (800) 228-0810.

SEXUAL ASSAULT VICTIM'S RIGHTS

Information and notices required to be provided to a sexual assault victim

Public Act 319 of 2014 established the [Sexual Assault Victim's Access to Justice Act](#) (SAVAJA), MCL 752.951 through MCL 752.957, to provide for specific victim's rights and notifications in sexual assault cases.

Terms defined for purposes of the SAVAJA are detailed in [MCL 752.952](#). These definitions include the following:

- "Sexual assault victim" (victim) means an individual subjected to a sexual assault offense, or for purposes of making communications and receiving notices under the SAVAJA, a person designated by the victim.
- "Sexual assault offense" means a violation or attempted violation of criminal sexual conduct (CSC) first, second, third, or fourth degree or assault with intent to commit CSC.

Required Information and Notice to Be Given to Sexual Assault Victims

Within **24 hours** after initial contact with a victim, the investigating law enforcement agency must give the victim a written copy of, or access to, the information stated in [MCL 752.953](#). This information includes providing the victim with information regarding the availability of sexual assault evidence kits, contact information for available local, community-based sexual assault services programs, any notice that is required under the [William Van Regenmorter Crime Victim's Rights Act](#), and other information relating to evidence and investigation of the case.

The Michigan Domestic and Sexual Violence Prevention and Treatment Board is required to prepare a sample notice card for victims and make this card available electronically to law enforcement agencies by June 30, 2015. Law enforcement agencies shall provide victims with this information and notice beginning no later than September 30, 2015.

Sexual Assault Victim's Request for Information

Upon request by a victim, an investigating law enforcement agency is required to provide general case information detailed in [MCL 752.955](#) and information about forensic testing results detailed [MCL 752.956\(1\)](#), if available, and if the disclosure does not impede or compromise an ongoing investigation.

[MCL 752.956\(2\)](#) requires that victims requesting information about forensic testing results must also be provided an informational handout explaining the meaning of possible forensic testing results. This handout must be developed by the Michigan Domestic and Sexual Violence Prevention and Treatment Board and be made available electronically for law enforcement no later than September 30, 2015.

[MCL 752.954](#) requires that if a victim has requested information under MCL 752.955 or MCL 752.956, the investigating law enforcement agency shall respond by telephone, in writing by mail, or by electronic mail, as specified by the victim. If the victim does not specify, the law enforcement agency may respond using any of the listed methods. A victim may designate an alternate person to receive the requested information and the law enforcement agency must direct any requested information to the designated person. The law enforcement agency may require the *initial* request for information by a victim to be in writing.

STATUTES

Requirements for the collection and handling of sexual assault kit evidence

Public Act 227 of 2014 established the [Sexual Assault Kit Evidence Submission Act](#) (SAKESA), MCL 752.931 through 752.935, to provide for the collection, handling, and disposition of sexual assault kit (SAK) evidence and to prohibit the exclusion of SAK evidence under certain circumstances.

This update is provided for informational purposes only. Officers should contact their local prosecutor for an interpretation before applying the information contained in this update.

Terms defined for purposes of the SAKESA are detailed in [MCL 752.932](#).

Release of Sexual Assault Kit Evidence

[MCL 752.933\(1\)](#) requires a health care facility to notify the investigating law enforcement agency within **24 hours** after obtaining a written consent to release SAK evidence. If the investigating law enforcement agency is unknown, the facility is required to notify the law enforcement agency having jurisdiction in that portion of the local unit of government in which the facility is located. [MCL 752.933\(2\)](#) requires a health care facility to store any SAK evidence that is not released to a law enforcement agency under this section for a minimum of one year before it is destroyed.

[MCL 752.934\(1\)](#) requires a law enforcement agency to take possession of SAK evidence within **14 days** after receiving notice of release from health care facility.

Duties after Taking Possession of Sexual Assault Kit Evidence

[MCL 752.934\(2\)](#) requires a law enforcement agency to notify another law enforcement agency within **14 days** after taking possession of SAK evidence from a health care facility if it determines that the alleged sexual assault occurred within the jurisdiction of the other law enforcement agency *and* it does not otherwise have jurisdiction over that assault. If notified, [MCL 752.934\(3\)](#) requires the other law enforcement agency to take possession of the SAK evidence within **14 days** after receiving such notice.

[MCL 752.934\(4\)](#) was added to require an investigating law enforcement agency to do the following within **14 days** after taking possession of SAK evidence from a health care facility or another law enforcement agency:

- Assign a criminal complaint number to the SAK evidence.
- Submit the SAK evidence with the assigned criminal complaint number to a Michigan State Police (MSP) Forensic Science Division laboratory or another accredited laboratory for analysis.

Additionally, [MCL 752.934\(4\)](#) requires all SAK evidence received by a law enforcement agency on or after March 1, 2015, to be submitted to a MSP Forensic Science Division laboratory or another accredited laboratory as provided above.

The provisions regarding failure to comply with the requirements of the SAKESA are detailed in [MCL](#)

[752.934\(8\)](#), [MCL 752.934\(9\)](#), and [MCL 752.934\(10\)](#). Officers should note that [MCL 752.934\(8\)](#) provides that the failure to take possession of SAK evidence or submit it for analysis within the required time limit does not limit the authority to take possession, submit for analysis, or analyze the SAK evidence at a later time or to upload any resulting DNA profiles into state and national DNA databases.

Notice of Intent to Destroy or Dispose of Sexual Assault Kit Evidence

[MCL 752.935](#) requires that if a law enforcement agency intends to destroy or otherwise dispose of any SAK evidence in a sexual assault offense case before the expiration of the applicable statute of limitation under [MCL 767.24](#), and its destruction does not otherwise conflict with the requirements of [MCL 770.16](#), the law enforcement agency with the primary responsibility for investigating the case shall notify the victim of that intention in writing at least **60 days** before the evidence is destroyed or otherwise disposed of.

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