

# Ohio Attorney Generals Office



*Changing the landscape of rape investigations in Ohio*

## Mike Dewine



- ☞ Cornerstone for Dewine's campaign has been to improve sexual assault investigation services
- ☞ Tremendous positive changes have occurred in Ohio since his tenure
- ☞ SB 77 and SB 316 most influential legislative changes to embark positive alterations in process

# Senate Bill 77



Forensic Nursing Implications

## SB 77



- ☞ 2010 Bill signed into law
- ☞ Impacted LE and FN
- ☞ Provided Ohio ability to capture more DNA from convicted population

## SB 77



- ☞ Provided foundation for huge amounts of data in CODIS (Combined DNA Index System)
- ☞ Began linking crimes together across the state

## SB 77



- ☞ Evidence Retention Summary
- ☞ Changed collection and preservation of biological evidence
- ☞ ORC 2901.07 – require DNA specimen collection from adult felony offenders
- ☞ ORC 2933.82 – gave mandatory biological evidence retention timeframes

## SB 77



- ☞ The timelines mandated by RC 2933.82 apply to every “governmental evidence retention entity,” which is any public or private entity or individual charged with the collection, storage or retrieval of biological evidence. This includes, but is not limited to, law enforcement agencies, prosecutors’ offices, clerks of courts and **public hospitals**.

## SB 77



- ☞ Specifically names SA kits as biological evidence
- ☞ Key to incorporating LE into more active role with established criteria for retention

## SB 77



- ⌘ RAPE – 20- 25 YEARS
- ⌘ MURDER – INDEFINITELY
- ⌘ Unsolved cases – 30 years
- ⌘ Guilty or no contest – have differing timelines of retention
  
- ⌘ Which means when you perform a forensic kit, that kit will have to be maintained for a minimum of 25 years.

## SB 77



- ⌘ Primary objective for SB 77 was to establish definitive criteria on how long entities must retain the evidence
- ⌘ Prior to SB 77 – evidence could be thrown away at the discretion of hospital, LE or other entity

## SB 77



- ☞ So now that agencies are required to store evidence for 25 or more years for rape.....

WHAT ABOUT SUBMITTING IT TO THE CRIME LAB!!!!

Assumption of automatic submission for processing is INCORRECT!

## SB 77



- ☞ Issues with submissions under new SB 77 led to create of SB 316
- ☞ Kits were stored at hospitals, PDs for years while on the shelf
- ☞ DFSAs expired (60 days) and unable to be tested
- ☞ Improper long term storage at MANY agencies led to degradation of evidence

# SB 77



Now that standards are in place to capture more felony offender DNA into CODIS

.....why isn't there more hits with matches

## **BIOLOGICAL EVIDENCE RETENTION: RC 2933.82**

SB 77 also enacted RC 2933.82, which established mandatory retention timelines for biological evidence collected in connection with the investigation or prosecution of a criminal offense or delinquent act. The timelines mandated by RC 2933.82 apply to every "governmental evidence retention entity," which is any public or private entity or individual charged with the collection, storage or retrieval of biological evidence. This includes, but is not limited to, law enforcement agencies, prosecutors' offices, clerks of courts and public hospitals.

"Biological evidence" means the contents of a sexual assault kit, blood, semen, hair, saliva, tissue or any other biological material that was collected as part of a criminal investigation or delinquent child investigation that may be exculpatory or incriminatory. Such evidence must be retained in accordance with the timeline regardless of whether it is present separately (such as on a slide or a swab) or on other evidence (such as clothing, bedding or cigarettes).

The RC 2933.82 retention timelines and the guidelines apply to the following offenses ("covered offenses"):

- |                                 |                      |
|---------------------------------|----------------------|
| • Aggravated murder             | 2903.01              |
| • Murder                        | 2903.02              |
| • Voluntary manslaughter        | 2903.03              |
| • Involuntary manslaughter      | 2903.04 (F1 or F2)   |
| • Aggravated vehicular homicide | 2903.06 (F1 or F2)   |
| • Vehicular homicide            | 2903.06 (F1 or F2)   |
| • Vehicular manslaughter        | 2903.06 (F1 or F2)   |
| • Rape                          | 2907.02              |
| • Attempted rape                | 2923.02/§ 2907.02    |
| • Sexual battery                | 2907.03              |
| • Gross sexual imposition       | 2907.05(A)(4) or (B) |

# Senate Bill 316



Forensic Nursing Implications

## SB 316



- ☞ Primary purpose was to remedy the issue of non submitted kits and improper storage
- ☞ This new law requires law enforcement agencies to submit violent crime evidence for laboratory DNA analysis within a specified time period.
- ☞ Enacted 3/23/2015

## SB 316



- ☞ Law enforcement agencies are considered to be in possession of a SAK if it is maintained at any “government evidence-retention entity.” This includes: law enforcement agencies, prosecutor’s offices, public hospitals, or crime labs. If a sexual assault examination kit has been collected by a local hospital, the corresponding law enforcement agency is responsible for retrieving the kit and submitting to BCI or other crime laboratory within 30 days.

## SB 316



- ☞ Additionally, the new law applies to investigations that involve one or more persons who may have committed or participated in aggravated murder, murder, voluntary manslaughter, first or second degree felony involuntary manslaughter, first or second degree felony, aggravated vehicular homicide, rape, sexual battery, gross sexual imposition, or attempted rape.

## SB 316



- ☞ Kits sitting in property rooms PRIOR to 3/23/15 must be submitted ASAP and at a max of one year
- ☞ \*\*PDs had until 3/23/16 to submit ALL outstanding kits to the crime lab
- ☞ Kits collected AFTER 3/23/15 must be submitted to crime lab for processing WITHIN 30 days

## SB 316



- ☞ Any investigation started after today, March 23, 2015, that involves a specified homicide or sex offense and includes a SAK must be submitted to BCI or to another crime laboratory for DNA analysis within 30 days. Timely submission of new cases will help ensure that this valuable DNA evidence does not linger in evidence rooms or hospital collection sites.

## SB 316



- ☞ CODIS matches began to hit across the state of Ohio
- ☞ Felony crimes were linked in bulk amounts
- ☞ Impact still being observed today

## SB 316



- ☞ Ohio Law enforcement agencies have shipped more than 12,000 of the evidence kits for testing. Some date back as far as the 1980s. More than 4,800 kits were sent from Cleveland and suburban Cuyahoga County departments.
- ☞ 10 new forensic analyst positions were added at the state lab to test the evidence as quickly as possible while not slowing down DNA testing in newly reported crimes.

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## SB 316



- ☞ Pro – tip bombshell:
- ☞ Most law enforcement street officers may not be aware of what SB 316 or SB 77 are. Most detectives WILL
- ☞ It's your job to professionally inform the LE agency that they are required to pick up the kit
- ☞ Ex: no victim – no crime mentality with LE
- ☞ “If we don't have a victim wanting to report the crime then we don't have to investigate”

## SB 316



- ☞ Pitfalls:
- ☞ No punitive action enforced with SB 316 or SB 77
- ☞ Until punitive action is enacted Ohio will continue to have major fall through in positive process
- ☞ Ohio Chiefs of Police Assoc was extremely influential with language of avoiding punitive action in order for legislation to pass

## SB 316 and 77



- ☞ Print and carry with you at all times the SB 77 and SB 316 information to provide law enforcement a professional reminder of their expectations from the Ohio Attorney Generals office.
- ☞ Remember your scope, if you have continued push back then you are to CALL ADMINISTRATION IMMEDIATELY

## SB 316



- ☞ Summary
- ☞ Ohio law in place on evidence retention standards
- ☞ Ohio law in place on evidence submission standards
- ☞ Goal is to have quality evidence collected, submitted to crime lab for processing and then further retention of evidence for the statue of limitations for the crime



**MIKE DeWINE**  
 ★ OHIO ATTORNEY GENERAL ★

30 East Broad Street  
 Columbus, Ohio 43215  
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March 23, 2015

Dear Law Enforcement Colleague,

Today, SB 316 becomes law. This new law requires law enforcement agencies to submit violent crime evidence for laboratory DNA analysis within a specified time period.

The law is an important step in my office's continuing effort to collect untested sexual assault examination kits (SAK) for DNA analysis. Through our SAK Testing Initiative, which began in 2011, our Bureau of Criminal Investigation (BCI) has collected over 9,000 rape kits. Of the rape kits our lab has tested so far, over 2,000 have resulted in a DNA database hit to a known offender, helping to identify serial rapists and solve cold cases.

Law enforcement agencies are considered to be in possession of a SAK if it is maintained at any "government evidence-retention entity." This includes: law enforcement agencies, prosecutor's offices, public hospitals, or crime labs. If a sexual assault examination kit has been collected by a local hospital, the corresponding law enforcement agency is responsible for retrieving the kit and submitting to BCI or other crime laboratory within 30 days. Additionally, the new law applies to investigations that involve one or more persons who may have committed or participated in aggravated murder, murder, voluntary manslaughter, first or second degree felony involuntary manslaughter, first or second degree felony, aggravated vehicular homicide, rape, sexual battery, gross sexual imposition, or attempted rape.

**Existing cases (submit as soon as possible or within one year)**

All law enforcement agencies are to review their records and reports of specified homicide and sex offenses (see below) and determine if a SAK was collected as part of the investigation. The SAK must be submitted to BCI or to another crime laboratory as soon as possible or at the latest by March 23, 2016 -- one year after the law's effective date. Please also consider the Statute of Limitations and other relevant factors in prioritizing older cases when submitting SAKs.

**New cases (submit within 30 days)**

Any investigation started after today, March 23, 2015, that involves a specified homicide or sex offense and includes a SAK must be submitted to BCI or to another crime laboratory for DNA analysis within 30 days. Timely submission of new cases will help ensure that this valuable DNA evidence does not linger in evidence rooms or hospital collection sites.

Thank you for helping to protect Ohio families. If you have questions about this new law or how to submit evidence to BCI, please contact BCI Laboratory at 740-845-2001 or [bci@ohioattorneygeneral.gov](mailto:bci@ohioattorneygeneral.gov).

Very respectfully yours,

Mike DeWine  
 Ohio Attorney General

# SB 316



- ☞ <https://youtu.be/4K-YX8unBAs>
- ☞ <https://youtu.be/zukxHNPW1Yg>
- ☞ <https://www.news4jax.com/news/local/jacksonville/61-cases-under-investigation-as-rape-kit-test-results-return>
- ☞ <http://abc11.com/news/333-fayetteville-rape-kits-destroyed-to-make-more-space/994767/>
- ☞ <https://www.usatoday.com/story/news/nation-now/2017/04/02/detroits-untested-rape-kits/99958628/>



# Questions?