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March 15, 2021

TO: The Honorable Chair Clay Doggett
Members of the House Criminal Justice Subcommittee
Tennessee General Assembly

FROM: Ilse Knecht
Director of Policy & Advocacy
Joyful Heart Foundation

RE: Testimony in Support of House Bill 39.

The Joyful Heart Foundation's mission is to transform society's response to sexual assault, domestic violence, and child abuse, support survivors' healing, and end this violence forever. Since 2010, Joyful Heart has made the elimination of the rape kit backlog—hundreds of thousands of untested rape kits across the nation—our top priority. We work directly with survivors, stakeholders, and jurisdictions to achieve this goal. Our staff, consultants, and partners have decades of expertise at the forefront of rape kit reform efforts. We have been instrumental in passing state-level rape kit reform legislation in 43 states including Arizona, California, Florida, Georgia, Hawai'i, Kentucky, Massachusetts, Nevada, New Mexico, New York, Texas, and Utah, and we have collaborated with local and state agencies to provide support during the implementation process. With this expertise and legislative track record, we respectfully submit testimony supporting House Bill 39.

The Joyful Heart Foundation strongly supports [House Bill 39](#) which would require sexual assault kit handling timelines, establish a statewide kit tracking system, and grant victims important rights. This bill would enact three of Joyful Heart Foundation's six pillars of rape kit reform.

Background on Joyful Heart Foundation's Six Pillars of Reform

We measure the progress of states in enacting laws and policies embracing our six legislative pillars of comprehensive rape kit reform. These are criteria our staff of experts—in consultation with survivors, advocates, law enforcement, forensic experts, prosecutors, and policymakers—have determined are critical elements in eliminating the untested rape kit backlog once and for all.

1. Annual statewide inventory: Count all untested rape kits on a recurring basis, enabling stakeholders to understand the scope of the problem and monitor progress.

2. Mandatory testing of backlogged kits: Eliminate the existing backlog by requiring law enforcement agencies to submit all previously untested kits to the lab, and requiring that these kits be tested.

3. Mandatory testing of new kits: Prevent future backlogs by requiring law enforcement agencies to promptly submit all newly collected kits to the lab, and requiring the lab to test these kits within a specific time frame.

4. Tracking system: Ensure that hospitals, law enforcement, and labs are using an electronic, statewide tracking system. Build in a way for survivors to check the status of their kits throughout the process, from collection to analysis.

5. Victims' rights to notice: Grant victims the right to receive information about the status and location of their rape kits.

6. Funding for reform: Appropriate state funding to address these issues

This bill would:

- Mandate healthcare providers to notify law enforcement agencies within 24 hours of collecting a sexual assault kit, law enforcement to then pick up the kit within 7 days of being notified and drop the evidence off to the state lab within 45 days of receiving the kit.
- Require the Tennessee Bureau of Investigations to create a rape kit tracking system following kits through the collection and testing process. The tracking system will allow victims to access the system anonymously. All agencies that handle kits are required to participate in the system.
- Give victims of sexual assault the right to be informed on the status of their kit, the right to a copy of the forensic analysis report of the kit, and whether their kit has been destroyed, among other important rights.

The Problem

Every 73 seconds, someone is sexually assaulted in the United States. In the immediate aftermath of a sexual assault, a victim may choose to undergo a medical forensic examination to collect evidence left behind during the assault. A doctor or nurse will conduct the four-to-six hour examination and will preserve this evidence in what is commonly called a "rape kit." Survivors who take the step of undergoing this exhaustive and invasive forensic exam do so because they have been told this evidence could help law enforcement hold their offender accountable.

When tested, the DNA evidence from rape kits can be a powerful tool to solve and prevent crimes. DNA evidence can identify unknown assailants, link crimes together, and exonerate the wrongfully convicted. Too often, however, these rape kits languish untested for years—even decades—in storage facilities.

There are hundreds of thousands of untested rape kits in storage across the country. Since 2010, over 220,000 untested rape kits are uncovered. However, we don't know the true extent of the backlog nationwide because many states do not require police departments to count or track the kits in their possession. Most times, the number of untested kits in a particular jurisdiction is unknown until legislators, journalists, survivors, or advocates step in to investigate.

Rape Kit Reform in Tennessee

This history of Tennessee rape kits dates back to 2013 when Memphis reported that it had more than [12,000 untested kits](#). Testing began in 2013 and is ongoing, enabled in part by outsourcing kits to a private lab.

The Tennessee legislature has taken steps in the past to improve rape kit handling but the state has more to do to get to comprehensive reform.

In 2014, Tennessee [enacted S.B. 1426](#) requiring the Tennessee Bureau of Investigation (TBI) to conduct a one-time audit of untested rape kits. TBI reported [9,062 untested kits](#) in law enforcement storage statewide.

In 2015, Tennessee [enacted S.B. 981](#) requiring law enforcement to send rape kits to the Tennessee Bureau of Investigation or another accredited lab for forensic analysis within 60 days.

From 2015 to 2020, Tennessee was awarded several grants by the [Manhattan District Attorney's Office](#) and [U.S. Department of Justice Bureau of Justice Assistance](#) to test kits and prosecute cases.

While Tennessee was one of the states that discovered large backlogs early compared to other states and legislative reform took early shape, that reform stalled in 2015 and there is more to be done.

Shrinking Testing Timelines

Current law in Tennessee requires law enforcement to send rape kits to the Tennessee Bureau of Investigation or another accredited lab for forensic analysis within 60 days. This is a longer timeline than most states that mandate submission of rape kits. Out of 33 states and D.C., only Minnesota, Tennessee, and Virginia have 60 days to submit kits to the lab. The vast majority are 30 days or less.

Tennessee law also does not include mandatory timelines for health care personnel to notify law enforcement about the collection of a kit or law enforcement to pick up kits at medical facilities. HB39 sets these timelines at 24 hours and 7 days. The proposed law recognizes the need to create a system that expeditiously tests rape kits in the interest of public safety.

Testing rape kits swiftly solves and prevents future crimes. Rape kits can yield DNA evidence which can be entered into local, state, and national DNA databases containing DNA from offenders. By testing every kit connected to a reported crime, more DNA profiles will be in these databases, potentially linking crimes and revealing [serial rapists](#), who assault both acquaintances and strangers as recent research and testing backlogged kits in Memphis has shown. Testing kits in Memphis has identified at least 22 serial rapists, nine of which have gone to prison.

Research out of the Begun Center at Case Western University found that sexual offenders are more common than previously believed. Even more, offenders who

commit sexual assault often are engaged in other crimes such as burglary, domestic violence, child abuse, and homicide. The sooner rape kits are tested, the sooner dangerous offenders can be taken off the streets. Expeditious testing of a rape kit can prevent cases from going cold. Investigating cold cases is challenging as witnesses can't be found or memories fade. What's more, clear and tight submission timelines prevents untested kits from accumulating in law enforcement evidence rooms or in forensic labs across the state.

It's important to understand that every single rape kit represents a survivor whose body has become a crime scene and has reported the crime to police, everything society asks them to do. Swift testing shows survivors that their case matters, brings them answers and a path to justice. Quickly testing a kit shows survivors that the state is taking the case and sexual assault in general, seriously, and doing everything in their power to bring them justice.

By requiring every sexual assault kit to be swiftly submitted and tested, Tennessee can send a powerful message to survivors that they—and their cases—matter. It demonstrates a commitment to survivors to bring a path to healing and justice. Testing every kit sends a message to perpetrators that law enforcement will employ every available tool to apprehend and prosecute them. It is also the pathway to a more effective criminal justice system and safer communities across the country.

Testing rape kits also saves communities money. In 2016, the Begun Center for Violence Prevention Research and Education at Case Western Reserve University analyzed the cost of testing backlogged rape kits in Cuyahoga County, Ohio. Factoring in the cost of testing kits and other related expenses, [the study](#) calculated the overall cost effectiveness of testing 4,347 unsubmitted kits, engaging survivors, investigating every lead, and prosecuting cases. The study found that Cuyahoga County **saved \$38.7 million** by testing 4,437 backlogged kits, investigating every case, prosecuting offenders, and preventing them from committing future crimes.

To date, 33 states and Washington, D.C. have enacted legislation mandating the timely testing of newly collected kits.

Tracking Systems are Crucial for Accountability and Victims' Rights

A rape kit tracking system is a web based system that allows individuals (mainly victims, law enforcement agents, hospital staff, lab staff, and other designated individuals) to follow the path of a rape kit throughout the chain of custody: from the hospital, to local law enforcement agency, throughout the analysis process at the lab, to final disposition.

The tracking system mandated by H.B.39 is crucial to holding actors such as hospitals, law enforcement, and DNA testing labs accountable as it can monitor if they are following the laws that dictate rape kit handling procedures. The system can be set up to notify various stakeholders if a kit gets stuck at one point in the process, thereby alerting everyone involved in the rape kit handling process, to the error. Tracking systems are good for the whole criminal justice system and make law

enforcement and prosecutor jobs easier by following crucial evidence from place to place.

Additionally, tracking systems provide for a comprehensive analysis of total rape kits in a state, showing how many are in possession of the hospital, how many law enforcement has, and the amount of rape kits at state labs that are either awaiting testing or have already been tested. Joyful Heart encourages states to include backlogged kits in the tracking system as well. All survivors deserve the same right to know the status of their kits.

Including a victim portal is important to survivors healing and wellbeing, as we will show in the section below. This feature allows survivors to control when they obtain critical information about the status and location of their kits. In half of the states, survivors have access to transparent handling of their rape kits. Sexual assault survivors in Tennessee deserve it too.

Currently 30 states and Washington DC have either implemented or are in the process of implementing sexual assault kit tracking systems

Information is Healing

When someone is sexually assaulted, they temporarily lose power and control over their life. Survivors feel this loss of control profoundly, and this feeling can persist. For survivors to gain a sense of control back and lessen the feelings of powerlessness, it's important for them to have choices, and be informed about their case, options, and next steps in their lives.

Even with the most supportive assistance available, the aftermath of a sexual assault is traumatic. This trauma can be compounded when survivors experience even unintentional insensitivity from law enforcement, helping professionals, or the system in general.

After having a forensic exam conducted, survivors go home and wait. They wait to hear about their case and the results of testing their rape kit. Tragically, most survivors, after leaving the hospital, are never contacted about the status of their rape kit.

In 2016, Joyful Heart released [Navigating Notification](#), the result of a 3-year research project studying best practices for victim notification and re-engagement. In partnership with researcher Dr. Courtney Ahrens of California State University at Long Beach, we brought together the voices of more than 90 survivors, criminal justice, medical, academic, and advocacy professionals to establish survivor-centered, trauma-informed policies and protocols for victim notification.

One of the key findings of our research was, for survivors who want to know about their case and their kit, not having access to such information can severely hamper recovery. One survivor said:

Just constantly thinking about, “When are they going to call me?” or “How come they haven’t and why is that, and when I can, there is still nothing. Always on my mind, yes, that whatever it is, it is, just the same question for 14 years. They didn’t say anything after that so it was a constant thought in my head for a very very long time.

Survivors in our study asserted strongly that information and that they are afforded rights and given options is very important to how they move forward. Survivor agency is key to healing.

Access to information about the status and location of their rape kits can help survivors counter the loss of self-determination and control that is often at the core of a sexual assault experience.

Twenty four states and Washington D.C. grant survivors the right to know the status of their kits. Survivors in Tennessee should have the same right.

The Road Ahead

To achieve comprehensive rape kit reform and to align with national best practices, Tennessee should pass laws that mandate an annual inventory of rape kits; the testing of all backlogged and newly collected kits within certain timeframes; the development of a statewide tracking system for kits; victims’ rights to know the status of their kit and case; and the funding necessary to implement these changes. We encourage the legislature, in consultation with advocates, practitioners, agency leaders, and most importantly, survivors of sexual assault, to push forward with survivor-centered legislative action.

We urge you to enact this important legislation. The Joyful Heart Foundation thanks you for your efforts on this issue. We stand ready to assist you in creating safer communities and offering a path to healing and justice to all sexual assault survivors in Tennessee.

With Gratitude,

Ilse Knecht



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