

By the Committee on Criminal Justice; and Senator Benacquisto

591-02537-16

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1                   A bill to be entitled  
2           An act relating to evidence collected in sexual  
3           offense investigations; creating s. 943.326, F.S.;  
4           requiring that a sexual offense evidence kit or other  
5           DNA evidence be submitted to a member of the statewide  
6           criminal analysis laboratory system within a specified  
7           timeframe after specified occurrences; requiring a  
8           medical provider or law enforcement agency to inform  
9           an alleged victim of a sexual offense of certain  
10          information relating to sexual offense evidence kits;  
11          requiring the retention of specified evidence;  
12          requiring adoption and dissemination of guidelines and  
13          procedures by certain entities by a specified date;  
14          requiring the testing of sexual offense evidence kits  
15          within a specified timeframe after submission to a  
16          member of the statewide criminal analysis laboratory;  
17          providing requirements for such guidelines and  
18          procedures; providing construction; providing an  
19          effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23           Section 1. Section 943.326, Florida Statutes, is created to  
24           read:

25           943.326 DNA evidence collected in sexual offense  
26           investigations.—

27           (1) A sexual offense evidence kit, or other DNA evidence if  
28           a kit is not collected, must be submitted to a member of the  
29           statewide criminal analysis laboratory system under s. 943.32  
30           for forensic testing within 30 days after:

31           (a) Receipt of the evidence by a law enforcement agency if  
32           a report of the sexual offense is made to the law enforcement

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33 agency; or

34 (b) A request to have the evidence tested is made to the  
35 medical provider or the law enforcement agency by:

36 1. The alleged victim;

37 2. The alleged victim's parent, guardian, or legal  
38 representative, if the alleged victim is a minor; or

39 3. The alleged victim's personal representative, if the  
40 alleged victim is deceased.

41 (2) An alleged victim or, if applicable, the person  
42 representing the alleged victim under subparagraph (1) (b)2. or  
43 subparagraph (1) (b)3. must be informed of the purpose of  
44 submitting evidence for testing and the right to request testing  
45 under subsection (1) by:

46 (a) A medical provider conducting a forensic physical  
47 examination for purposes of a sexual offense evidence kit; or

48 (b) A law enforcement agency that collects other DNA  
49 evidence associated with the sexual offense if a kit is not  
50 collected under paragraph (a).

51 (3) A collected sexual offense evidence kit must be  
52 retained in a secure, environmentally safe manner until the  
53 prosecuting agency has approved its destruction.

54 (4) By January 1, 2017, the department and each laboratory  
55 within the statewide criminal analysis laboratory system, in  
56 coordination with the Florida Council Against Sexual Violence,  
57 shall adopt and disseminate guidelines and procedures for the  
58 collection, submission, and testing of DNA evidence that is  
59 obtained in connection with an alleged sexual offense. The  
60 timely submission and testing of sexual offense evidence kits is  
61 a core public safety issue. Testing of sexual offense evidence

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62 kits must be completed no later than 120 days after submission  
63 to a member of the statewide criminal analysis laboratory  
64 system.

65 (a) The guidelines and procedures must include the  
66 requirements of this section, standards for how evidence is to  
67 be packaged for submission, what evidence must be submitted to a  
68 member of the statewide criminal analysis laboratory system, and  
69 timeframes for when the evidence must be submitted, analyzed,  
70 and compared to DNA databases.

71 (b) The testing requirements of this section are satisfied  
72 when a member of the statewide criminal analysis laboratory  
73 system tests the contents of the sexual offense evidence kit in  
74 an attempt to identify the foreign DNA attributable to a  
75 suspect. If a sexual offense evidence kit is not collected, the  
76 laboratory may receive and examine other items directly related  
77 to the crime scene, such as clothing or bedding or personal  
78 items left behind by the suspect. If probative information is  
79 obtained from the testing of the sexual offense evidence kit,  
80 the examination of other evidence should be based on the  
81 potential evidentiary value to the case and determined through  
82 cooperation among the investigating agency, the laboratory, and  
83 the prosecutor.

84 (5) This section does not create a cause of action or  
85 create any rights for an individual to challenge the admission  
86 of evidence or create a cause of action for damages or any other  
87 relief for a violation of this section.

88 Section 2. This act shall take effect July 1, 2016.