

By the Committees on Appropriations; and Criminal Justice; and
Senators Benacquisto, Flores, and Joyner

576-03790-16

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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

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32 a report of the sexual offense is made to the law enforcement
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

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61 a core public safety issue. Testing of sexual offense evidence
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) A violation of this section does not create:

85 (a) A cause of action or a right to challenge the admission
86 of evidence.

87 (b) A cause of action for damages or any other relief.

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