

By the Committee on Criminal Justice; and Senator Stewart

591-02001-24

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1                   A bill to be entitled  
2           An act relating to retention of sexual offense  
3           evidence; amending s. 943.326, F.S.; requiring that  
4           specified sexual offense evidence be retained by  
5           specified entities for a minimum number of years after  
6           the collection date; requiring that such evidence be  
7           stored anonymously in a secure, environmentally safe  
8           manner, and with a documented chain of custody;  
9           providing an effective date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

12  
13           Section 1. Section 943.326, Florida Statutes, is amended to  
14           read:

15           943.326 DNA evidence collected in sexual offense forensic  
16           physical examinations and investigations.—

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

21           (a) Receipt of the evidence by a law enforcement agency if  
22           a report of the sexual offense is made to the law enforcement  
23           agency; or

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

- 26           1. The alleged victim;  
27           2. The alleged victim's parent, guardian, or legal  
28           representative, if the alleged victim is a minor; or  
29           3. The alleged victim's personal representative, if the

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30 alleged victim is deceased.

31 (2) An alleged victim or, if applicable, the person  
32 representing the alleged victim under subparagraph (1)(b)2. or  
33 3. must be informed of the purpose of submitting evidence for  
34 testing and the right to request testing under subsection (1)  
35 by:

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

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

41 (3) (a) Except as provided in paragraph (b), a collected  
42 sexual offense evidence kit, or other DNA evidence if a kit is  
43 not collected, that is collected from an alleged victim who  
44 reports a sexual offense to a law enforcement agency or who  
45 makes a request, or on whose behalf a request is made, for  
46 testing in compliance with paragraph (1)(b) must be retained in  
47 a secure, environmentally safe manner until the prosecuting  
48 agency has approved its destruction.

49 (b)1. A sexual offense evidence kit that is collected from  
50 a person who does not report a sexual offense to a law  
51 enforcement agency during the forensic physical examination and  
52 who does not make a request, or have a request made on his or  
53 her behalf, in compliance with paragraph (1)(b) must be retained  
54 for a minimum of 8 years after the collection date by the  
55 medical facility that collected the kit, a certified rape crisis  
56 center with appropriate storage capabilities, or a law  
57 enforcement agency. A sexual offense evidence kit retained  
58 pursuant to this subparagraph must be stored anonymously, in a

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59 secure, environmentally safe manner, and with a documented chain  
60 of custody.

61 2. If, at any time following the initial retention of a  
62 sexual offense evidence kit pursuant to subparagraph (b)1., an  
63 alleged victim makes a report to a law enforcement agency or  
64 makes a request, or has a request made on his or her behalf, for  
65 testing in compliance with paragraph (1)(b), the kit must be  
66 retained as described in paragraph (a).

67 (4) The department and each laboratory within the statewide  
68 criminal analysis laboratory system, in coordination with the  
69 Florida Council Against Sexual Violence, shall adopt and  
70 disseminate guidelines and procedures for the collection,  
71 submission, and testing of DNA evidence that is obtained in  
72 connection with an alleged sexual offense. The timely submission  
73 and testing of sexual offense evidence kits is a core public  
74 safety issue. Testing of sexual offense evidence kits must be  
75 completed no later than 120 days after submission to a member of  
76 the statewide criminal analysis laboratory system.

77 (a) The guidelines and procedures must include the  
78 requirements of this section, standards for how evidence is to  
79 be packaged for submission, what evidence must be submitted to a  
80 member of the statewide criminal analysis laboratory system, and  
81 timeframes for when the evidence must be submitted, analyzed,  
82 and compared to DNA databases.

83 (b) The testing requirements of this section are satisfied  
84 when a member of the statewide criminal analysis laboratory  
85 system tests the contents of the sexual offense evidence kit in  
86 an attempt to identify the foreign DNA attributable to a  
87 suspect. If a sexual offense evidence kit is not collected, the

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88 laboratory may receive and examine other items directly related  
89 to the crime scene, such as clothing or bedding or personal  
90 items left behind by the suspect. If probative information is  
91 obtained from the testing of the sexual offense evidence kit,  
92 the examination of other evidence should be based on the  
93 potential evidentiary value to the case and determined through  
94 cooperation among the investigating agency, the laboratory, and  
95 the prosecutor.

96 (c) The department shall, subject to appropriation by the  
97 Legislature, no later than July 1, 2023, create and maintain a  
98 statewide database to track the location, processing status, and  
99 storage of each sexual offense evidence kit collected after the  
100 implementation of the database that is accessible to law  
101 enforcement agencies and alleged victims and other persons  
102 listed in paragraph (1)(b). The database shall track the status  
103 of the kits from the collection site throughout the criminal  
104 justice process, including the initial collection at medical  
105 facilities, inventory and storage by law enforcement agencies or  
106 crime laboratories, analysis at crime laboratories, and storage  
107 or destruction after completion of analysis.

108 (d) The department shall adopt rules establishing the  
109 requirements for each entity that participates in the database.  
110 Law enforcement agencies, medical facilities, crime  
111 laboratories, and any other facilities that collect, receive,  
112 maintain, store, or preserve sexual offense evidence kits shall  
113 participate in the database, as required by the department.

114 (e) The department shall ensure that each alleged victim  
115 and other person listed in paragraph (1)(b) is notified of the  
116 existence of the database and provided with instructions on how

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117 to access it and informed that he or she is entitled to access  
118 to information regarding the alleged victim's sexual offense  
119 evidence kit, including tracking information, testing status,  
120 and any DNA matches to a person deemed by investigators to be a  
121 suspect or person of interest. However, notification of a DNA  
122 match shall state only that a DNA match has occurred and may not  
123 contain any genetic or other identifying information. Such a  
124 notification may be delayed for up to 180 days if such  
125 notification would, in the opinion of investigators, negatively  
126 affect the investigation.

127 (5) A violation of this section does not create:

128 (a) A cause of action or a right to challenge the admission  
129 of evidence.

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

131 Section 2. This act shall take effect July 1, 2024.