

By the Appropriations Committee on Criminal and Civil Justice;
the Committee on Criminal Justice; and Senator Stewart

604-03138-24

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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.

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

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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

604-03138-24

2024764c2

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 50 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

604-03138-24

2024764c2

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

604-03138-24

2024764c2

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

604-03138-24

2024764c2

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.