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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 specified entities to
7 transfer such sexual offense evidence to the
8 Department of Law Enforcement within a specified time
9 period; requiring the department to retain such sexual
10 offense evidence; requiring that such evidence be
11 stored anonymously, in a secure, environmentally safe
12 manner, and with a documented chain of custody;
13 providing requirements for the transferring, storing,
14 and destruction of such sexual offense evidence;
15 providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Section 943.326, Florida Statutes, is amended to
20 read:

21 943.326 DNA evidence collected in sexual offense forensic
22 physical examinations and investigations.—

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

27 (a) Receipt of the evidence by a law enforcement agency if
28 a report of the sexual offense is made to the law enforcement
29 agency; or

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

32 1. The alleged victim;

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

35 3. The alleged victim's personal representative, if the
36 alleged victim is deceased.

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

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

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

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

55 (b)1. A sexual offense evidence kit that is collected from
56 a person who does not report a sexual offense to a law
57 enforcement agency during the forensic physical examination and
58 who does not make a request, or have a request made on his or

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59 her behalf, in compliance with paragraph (1)(b) must be retained
60 for a minimum of 50 years after the collection date. Within 30
61 days after collecting such a kit, the medical facility or
62 certified rape crisis center that collected the kit must
63 transfer the kit to the department, which must maintain the kit
64 in compliance with this subparagraph. A sexual offense evidence
65 kit that is transferred and retained pursuant to this
66 subparagraph must be stored anonymously, in a secure,
67 environmentally safe manner, and with a documented chain of
68 custody.

69 2. If, at any time following the initial retention of a
70 sexual offense evidence kit pursuant to subparagraph 1., an
71 alleged victim makes a report to a law enforcement agency or
72 makes a request, or has a request made on his or her behalf, for
73 testing in compliance with paragraph (1)(b), the kit must be
74 retained as described in paragraph (a) if the applicable time
75 limitation under s. 775.15 has not expired and prosecution of a
76 criminal case may still be commenced. In circumstances in which
77 a criminal case may not be commenced because the applicable time
78 limitation under s. 775.15 has expired, the kit must be
79 maintained in a secure, environmentally safe manner until the
80 department has approved its destruction.

81 (4) The department and each laboratory within the statewide
82 criminal analysis laboratory system, in coordination with the
83 Florida Council Against Sexual Violence, shall adopt and
84 disseminate guidelines and procedures for the collection,
85 submission, and testing of DNA evidence that is obtained in
86 connection with an alleged sexual offense. The timely submission
87 and testing of sexual offense evidence kits is a core public

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88 safety issue. Testing of sexual offense evidence kits must be
89 completed no later than 120 days after submission to a member of
90 the statewide criminal analysis laboratory system.

91 (a) The guidelines and procedures must include the
92 requirements of this section, standards for how evidence is to
93 be packaged for submission, what evidence must be submitted to a
94 member of the statewide criminal analysis laboratory system, and
95 timeframes for when the evidence must be submitted, analyzed,
96 and compared to DNA databases.

97 (b) The testing requirements of this section are satisfied
98 when a member of the statewide criminal analysis laboratory
99 system tests the contents of the sexual offense evidence kit in
100 an attempt to identify the foreign DNA attributable to a
101 suspect. If a sexual offense evidence kit is not collected, the
102 laboratory may receive and examine other items directly related
103 to the crime scene, such as clothing or bedding or personal
104 items left behind by the suspect. If probative information is
105 obtained from the testing of the sexual offense evidence kit,
106 the examination of other evidence should be based on the
107 potential evidentiary value to the case and determined through
108 cooperation among the investigating agency, the laboratory, and
109 the prosecutor.

110 (c) The department shall, subject to appropriation by the
111 Legislature, no later than July 1, 2023, create and maintain a
112 statewide database to track the location, processing status, and
113 storage of each sexual offense evidence kit collected after the
114 implementation of the database that is accessible to law
115 enforcement agencies and alleged victims and other persons
116 listed in paragraph (1) (b). The database shall track the status

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117 of the kits from the collection site throughout the criminal
118 justice process, including the initial collection at medical
119 facilities, inventory and storage by law enforcement agencies or
120 crime laboratories, analysis at crime laboratories, and storage
121 or destruction after completion of analysis.

122 (d) The department shall adopt rules establishing the
123 requirements for each entity that participates in the database.
124 Law enforcement agencies, medical facilities, crime
125 laboratories, and any other facilities that collect, receive,
126 maintain, store, or preserve sexual offense evidence kits shall
127 participate in the database, as required by the department.

128 (e) The department shall ensure that each alleged victim
129 and other person listed in paragraph (1) (b) is notified of the
130 existence of the database and provided with instructions on how
131 to access it and informed that he or she is entitled to access
132 to information regarding the alleged victim's sexual offense
133 evidence kit, including tracking information, testing status,
134 and any DNA matches to a person deemed by investigators to be a
135 suspect or person of interest. However, notification of a DNA
136 match shall state only that a DNA match has occurred and may not
137 contain any genetic or other identifying information. Such a
138 notification may be delayed for up to 180 days if such
139 notification would, in the opinion of investigators, negatively
140 affect the investigation.

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

142 (a) A cause of action or a right to challenge the admission
143 of evidence.

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

145 Section 2. This act shall take effect October 1, 2024.