
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alan Miller.

DIGEST

SB 361 Original

2024 Regular Session

Mizell

Present law requires all criminal justice agencies charged with the maintenance, storage, and preservation of sexual assault collection kits to conduct a physical inventory of all such kits being stored by the agency and compile, in writing, a report containing the number of untested sexual assault collection kits in the possession of the agency and the date the sexual assault kit was collected. Present law requires each criminal justice agency to also provide written notification if it does not have any untested sexual assault collection kits in its possession. Present law requires the report to be transmitted to the director of the La. State Police Crime Laboratory (laboratory).

Present law requires the laboratory to prepare and transmit a report to the chairman of the Senate Committee on Judiciary B and the chairman of the House of Representatives Committee on Judiciary containing the number of untested sexual assault collection kits being stored by each parish, by each criminal justice agency, and the date the untested kit was collected. Present law requires the report to also include the name and contact information of each criminal justice agency that failed to submit the report required by present law.

Proposed law requires that sexual assault evidence collection kits be processed in the following manner:

- (1) Any medical facility that conducts a medical forensic examination or prepares a sexual assault evidence collection kit shall immediately, but no longer than four hours after the finalization of examination, contact the appropriate law enforcement agency to collect the kit. Until the kit is retrieved by law enforcement, the medical facility shall store the kit in a refrigerated manner in conformity with the Scientific Working Group for DNA Analysis Method.
- (2) When a law enforcement agency is contacted to collect a sexual assault evidence kit, the law enforcement agency shall take possession of the kit from the medical facility within 24 hours. Upon taking physical possession of the sexual assault evidence collection kit, the law enforcement agency shall transport the kit in a manner that preserves the evidence in the kit. The agency shall perform either of the following:
 - (a) Store the kit in a secure, refrigerated location in the agency no more than two hours after taking physical possession of the kit.
 - (b) Transport the kit directly to the laboratory.
- (3) All kits must be delivered to the laboratory no later than seven calendar days from the date the law enforcement agency took physical possession of the kit.

- (4) A law enforcement agency that receives a sexual assault collection kit from a healthcare provider that relates to a report of a sexual assault that occurred outside the jurisdiction of that law enforcement agency shall have the sexual assault collection kit delivered to the law enforcement agency having jurisdiction within 10 days of learning that the other law enforcement agency has jurisdiction.

Proposed law requires the laboratory to test sexual assault evidence collection kits within 60 days of receipt from a law enforcement agency. Provides forensic DNA testing shall be performed according to laboratory methods that determine the presence of DNA suitable for STR analysis. Provides any autosomal, Combined DNA Index System (CODIS) eligible DNA profile shall be entered into the CODIS or equivalency thereof and state or local DNA database. Further provides that if the laboratory is unable to determine DNA present, other than the victim's DNA, in the sexual assault evidence collection kit, the laboratory shall evaluate the case, when suitable, to determine if any other DNA results could be used for investigative purposes.

Proposed law requires that when laboratory testing does result in a DNA profile foreign to the victim, to enter the foreign DNA profile into the CODIS and any other required state or local DNA databases within 90 days.

Proposed law authorizes the laboratory to contract other laboratories to ensure that each kit is tested and the information from such kit is entered into CODIS, when applicable, within the time frames required by proposed law.

Proposed law requires that, upon the request of a sexual assault victim or their designee, the law enforcement agency that is investigating the assault of such victim inform the victim of the location of the sexual assault evidence kit or other crime scene evidence from the victim's case and the status of the DNA testing of the sexual assault evidence kit or other crime scene evidence from the victim's case.

Proposed law requires the law enforcement agency to respond to the victim's request as soon as possible, but no longer than seven calendar days, with either an oral or written communication, or by email, if an email address is available.

Proposed law requires that the victim of sexual assault have the following rights:

- (1) The right to be informed by the law enforcement agency handling the case whether a DNA profile of the assailant was obtained from the testing of the sexual assault evidence kit or other crime scene evidence from their case.
- (2) The right to be informed whether the DNA profile of the assailant developed from the sexual assault evidence kit or other crime scene evidence has been entered into the laboratory's DNA identification system or CODIS.
- (3) The right to be informed whether there is a match between the DNA profile of the assailant developed from the rape kit evidence or other crime scene evidence and a DNA profile

contained in the laboratory's DNA identification system, provided that disclosure would not impede or compromise an ongoing investigation.

Proposed law requires that if the law enforcement agency intends to destroy or dispose of the sexual assault evidence kit or any other crime scene evidence from an unsolved sexual assault case, the victim of the case be given written notification by the law enforcement agency of that intention within 20 days. Proposed law requires the victim be granted further preservation of the kit or its probative contents, upon their request.

Proposed law prohibits a law enforcement agency from destroying or disposing of the sexual assault evidence kit or any other crime scene evidence from an unsolved sexual assault case before 20 years after the collection of the evidence of the crime or, if the victim was under eighteen years of age at the time of the alleged offense, before the victim is 40 years of age.

Proposed law authorizes a sexual assault victim to designate a sexual assault victim advocate, or other support person of the victim's choosing, to act as a recipient of the above information required to be provided by proposed law.

Proposed law authorizes the victim or the victim's designee to keep appropriate authorities informed of the name, address, telephone number, and email address of the person to whom the information should be provided, and any changes of the name, address, telephone number, and email address, if an email address is available.

Proposed law prohibits a defendant or person accused or convicted of a crime against the victim from having standing to object to any failure to comply with proposed law.

Proposed law provides that the sole civil or criminal remedy available to a sexual assault victim for a law enforcement agency's failure to fulfill its responsibilities under proposed law be standing to file a writ of mandamus to require compliance with the requirements of proposed law.

Proposed law requires the laboratory to conduct a study and issue a report by January 1, 2025, that examines the resources required to implement a rape kit tracking system in the state and address all of the following:

- (1) Be operated and managed by the laboratory for the purpose of tracking all rape kits collected for testing or analysis.
- (2) Be accessible to sexual assault victims and other authorized users as determined by the La. State Police.
- (3) Function as an online accessible database capable of receiving, maintaining, storing and preserving tracking information related to the testing and analysis of all rape kits.

Proposed law requires the laboratory to issue a report of its findings and recommendations to the

legislature no later than January 1, 2025.

Effective August 1, 2024.

(Amends R.S. 15:622)