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Legislative Document

No. 1816

S.P. 707

In Senate, April 29, 2025

**An Act to Establish a Statewide Sexual Assault Forensic
Examination Kit Tracking System and Conduct an Inventory of
Existing Forensic Examination Kits in the Possession of Law
Enforcement**

(EMERGENCY)

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in black ink, appearing to read "D M Grant", is positioned above the name of the Secretary of the Senate.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator DUSON of Cumberland.
Cosponsored by Representative STOVER of Boothbay and
Senators: BENNETT of Oxford, President DAUGHTRY of Cumberland, PIERCE of
Cumberland, Representatives: CARLOW of Buxton, Speaker FECTEAU of Biddeford,
GRAMLICH of Old Orchard Beach, MILLIKEN of Blue Hill.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the creation of a statewide sexual assault forensic examination kit tracking
4 system and an inventory of all sexual assault forensic examination kits in the possession of
5 law enforcement agencies has begun pursuant to a federal grant, which will end in June
6 2025, leaving the tracking system and inventory partially complete; and

7 **Whereas,** this legislation requires the establishment of a forensic examination kit
8 tracking system, allowing the work that has commenced to establish a statewide tracking
9 system to continue without interruption; and

10 **Whereas,** the immediate passage of this legislation is critical to strengthen the State's
11 enforcement of sexual assault laws and response to sexual assault; and

12 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
13 the meaning of the Constitution of Maine and require the following legislation as
14 immediately necessary for the preservation of the public peace, health and safety; now,
15 therefore,

16 **Be it enacted by the People of the State of Maine as follows:**

17 **Sec. 1. 24 MRSA §2986, sub-§3,** as amended by PL 2019, c. 94, §1, is further
18 amended to read:

19 **3. Completed kit.** If the alleged victim has not reported the alleged offense to a law
20 enforcement agency when the examination is complete, the hospital or health care
21 practitioner shall then notify the nearest law enforcement agency, which shall transport and
22 store the completed forensic examination kit for 8 20 years. The completed kit may be
23 identified only by the tracking number. If during that storage period an alleged victim
24 decides to report the alleged offense to a law enforcement agency, the alleged victim may
25 contact the hospital or health care practitioner to determine the tracking number. The
26 hospital or health care practitioner shall provide the alleged victim with the tracking
27 number on the forensic examination kit and shall inform the alleged victim which law
28 enforcement agency is storing the kit.

29 If the alleged victim reports the alleged offense to a law enforcement agency by the time
30 the examination is complete, the investigating agency shall retain custody of the forensic
31 examination kit.

32 If an examination is performed under subsection 5 and the alleged victim does not, within
33 60 days, regain a state of consciousness adequate to decide whether or not to report the
34 alleged offense, the State may file a motion in the District Court relating to the storing or
35 processing analysis of the forensic examination kit. Upon finding good cause and after
36 considering factors, including, but not limited to, the possible benefits to public safety in
37 processing analyzing the kit and the likelihood of the alleged victim's regaining a state of
38 consciousness adequate to decide whether or not to report the alleged offense in a
39 reasonable time, the District Court may order either that the kit be stored for additional time
40 or that the kit be transported to the Maine State Police Crime Laboratory for processing
41 analysis in accordance with the laboratory's practices and procedures, or such other
42 disposition that the court determines just. In the interests of justice or upon motion by the

1 State, the District Court may conduct hearings required under this paragraph confidentially
2 and in camera and may impound pleadings and other records related to them.

3 A law enforcement agency shall store a completed forensic examination kit involving
4 sexual assault for 20 years regardless of whether the alleged offense is reported to a law
5 enforcement agency.

6 **Sec. 2. 25 MRSA §2915-A** is enacted to read:

7 **§2915-A. Sexual assault forensic examination kit tracking system**

8 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
9 following terms have the following meanings.

10 A. "Crime laboratory" means the Maine State Police Crime Laboratory located in
11 Augusta or another laboratory that provides forensic services to law enforcement
12 agencies for the purpose of analyzing forensic examination kits.

13 B. "Department" means the Department of Public Safety.

14 C. "Forensic examination kit" or "kit" means a uniform standardized forensic
15 examination kit developed by the department pursuant to section 2915, subsection 1
16 for evidence collection by a licensed health care provider in alleged cases of sexual
17 assault.

18 D. "Law enforcement agency" means the State Police, a county law enforcement
19 agency or a municipal law enforcement agency.

20 E. "Licensed health care provider" means:

21 (1) A hospital licensed under Title 22, chapter 405; or

22 (2) A health care practitioner who is licensed by this State to provide or otherwise
23 lawfully providing health care or a partnership or corporation made up of such
24 health care practitioners.

25 F. "Sexual assault" means a crime enumerated in Title 17-A, chapter 11.

26 G. "Tracking system" means the forensic examination kit tracking system established
27 by the department pursuant to subsection 2.

28 **2. Forensic examination kit tracking system.** The department shall establish,
29 operate and maintain a tracking system for all completed forensic examination kits,
30 regardless of whether the alleged offense relating to the kit was reported to a law
31 enforcement agency, that is continuously accessible to approved users, including licensed
32 health care providers who perform examinations for alleged victims of sexual assault.

33 A. The department shall establish, operate and maintain the tracking system through
34 the use of department personnel and resources and, to accomplish those duties, may
35 contract with public or private entities, including, but not limited to, software and
36 technology providers, to accomplish the department's duties related to the tracking
37 system.

38 B. Approved users must adhere to the following procedures when entering information
39 for each kit into the tracking system, which must, at a minimum, collect the following
40 information.

1 (1) A crime laboratory shall enter into the tracking system each new and unused
2 kit and record the kit's intended destination before the kit leaves the possession of
3 the crime laboratory.

4 (2) A licensed health care provider shall enter into the tracking system the date it
5 receives each kit from a crime laboratory.

6 (3) A licensed health care provider shall identify when a kit was used for evidence
7 collection and enter into the tracking system the date when the kit was used.

8 (4) A licensed health care provider shall identify when a completed kit is
9 transferred to a law enforcement agency and to which law enforcement agency it
10 is transferred and enter into the tracking system the date when the kit was
11 transferred and, to the extent known to the licensed health care provider, whether
12 the alleged victim of sexual assault for whom a kit was completed has reported the
13 alleged sexual assault to a law enforcement agency.

14 (5) A licensed health care provider shall identify when a kit is discarded based on
15 damage to the kit or its use in training and enter into the tracking system the date
16 on which the kit was discarded.

17 (6) A law enforcement agency shall enter into the tracking system the date it
18 receives a completed kit and the location where the completed kit is being stored
19 and, to the extent known to the law enforcement agency, whether the alleged victim
20 of sexual assault for whom the kit was completed has reported the alleged sexual
21 assault to a law enforcement agency.

22 (7) A law enforcement agency in possession of a completed kit shall enter into the
23 tracking system the date that law enforcement agency reports to a prosecuting
24 attorney that a forensic examination has been performed pursuant to Title 24,
25 section 2986.

26 (8) A crime laboratory shall identify when it has conducted an analysis of a
27 completed kit and enter into the tracking system the date of the analysis.

28 (9) A law enforcement agency that receives a kit after analysis from a crime
29 laboratory shall identify when it received the kit and whether that kit was stored or
30 destroyed.

31 C. The tracking system must provide for the updating and tracking of a forensic
32 examination kit as follows.

33 (1) An alleged victim of sexual assault from whom forensic evidence has been
34 collected using a kit must have access to the tracking system on an anonymous and
35 secure basis for the purposes of receiving updates regarding the kit and tracking
36 the status of the kit.

37 (2) A licensed health care provider, law enforcement agency or any other entity in
38 possession of a kit must have access to the tracking system for the purposes of
39 entering, updating and tracking the status and location of the kit.

40 (3) Prosecuting attorneys in the State must have access to the tracking system for
41 the purpose of receiving updates regarding the kits and tracking the status of the
42 kits.

1 **3. Participation required.** Law enforcement agencies, licensed health care providers,
2 crime laboratories and prosecuting attorneys in the State shall participate in the tracking
3 system on the schedule and in the manner required by the department pursuant to rules
4 adopted pursuant to subsection 6.

5 **4. Immunity.** A person or entity required by subsection 3 to participate in the tracking
6 system is immune from civil liability for actions taken as a participant that are required by
7 subsection 3 or by rules adopted pursuant to subsection 6.

8 **5. Report.** The department shall report to the joint standing committee of the
9 Legislature having jurisdiction over criminal justice and public safety matters and the
10 Governor by January 1, 2027, and annually thereafter, regarding the tracking system. The
11 report may include recommendations from the department for improved operation of the
12 tracking system and must include the following information, identified by the county from
13 which a forensic examination kit was entered into the tracking system:

14 A. The number of completed kits in the tracking system, including:

15 (1) The number of completed kits for which the alleged victim of sexual assault
16 has reported the alleged offense to a law enforcement agency and, of those kits, the
17 number on which analysis has been completed and the number on which analysis
18 has not been completed; and

19 (2) The number of completed kits for which the alleged victim of sexual assault
20 has not reported the alleged offense to a law enforcement agency and, of those kits,
21 the number on which analysis has been completed and the number on which
22 analysis has not been completed;

23 B. The number of completed kits that were entered into the tracking system during the
24 prior calendar year, including:

25 (1) The number of completed kits for which the alleged victim of sexual assault
26 has reported the alleged offense to a law enforcement agency and, of those kits, the
27 number on which analysis has been completed and the number on which analysis
28 has not been completed; and

29 (2) The number of completed kits for which the alleged victim of sexual assault
30 has not reported the alleged offense to a law enforcement agency and, of those kits,
31 the number on which analysis has been completed and the number on which
32 analysis has not been completed;

33 C. The average and median lengths of time for forensic examination kits to be sent for
34 analysis after being entered into the tracking system and for analysis to be completed;
35 and

36 D. The number of reported forensic examination kits entered into the tracking system
37 for more than one year for which analysis has not been completed.

38 The State Police and any other law enforcement agency that performs its duties in more
39 than one county shall provide to the department tracking information for each county where
40 a forensic examination kit was entered into the tracking system.

41 **6. Rules.** The commissioner shall adopt rules to govern participation in and
42 implementation of the tracking system. The rules must include provisions for maintaining
43 confidentiality of tracking system information; provisions to ensure timely posting to the

1 tracking system; a process for approving tracking system users and access for approved
2 users; procedures for posting information and for updating information in the tracking
3 system; and requirements for documentation of persons who have posted, accessed and
4 updated information in the tracking system. Rules adopted pursuant to this subsection are
5 routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

6 **Sec. 3. 25 MRSA §3821**, as amended by PL 2023, c. 236, §1, is further amended to
7 read:

8 **§3821. Transportation and storage of forensic examination kits**

9 For the purposes of this section, "sexual assault" means any crime enumerated in Title
10 17-A, chapter 11 and "strangulation" has the same meaning as in Title 17-A, section 208,
11 subsection 1, paragraph C.

12 If an alleged victim of sexual assault or strangulation has a forensic examination and
13 has not reported the alleged offense to a law enforcement agency when the examination is
14 complete, the licensed hospital or licensed health care practitioner that completed the
15 forensic examination shall notify the nearest law enforcement agency. That law
16 enforcement agency shall transport the completed forensic examination kit, identified only
17 by a tracking number assigned by the kit manufacturer, to its evidence storage facility. If
18 an alleged victim of sexual assault or strangulation has a forensic examination and has
19 reported the alleged offense to a law enforcement agency when the examination is
20 complete, or the alleged victim reports the alleged offense after the forensic examination
21 kit has been transported to the nearest law enforcement agency, the law enforcement agency
22 investigating the offense shall take possession of that kit. The A law enforcement agency
23 shall store the forensic examination kits involving sexual assault for 20 years and forensic
24 examination kits involving only strangulation for 6 years, regardless of whether the alleged
25 offense relating to the kit is reported to a law enforcement agency. If during that storage
26 period the alleged victim reports the offense to a law enforcement agency, the investigating
27 agency shall take possession of the forensic examination kit.

28 In the case of a forensic examination performed under Title 24, section 2986,
29 subsection 5, the law enforcement agency must immediately notify the district attorney for
30 the district in which the hospital or health care practitioner is located that such a forensic
31 examination has been performed and a forensic examination kit has been completed under
32 Title 24, section 2986, subsection 5.

33 **Sec. 4. Sexual assault forensic examination kit inventory.** By June 1, 2026,
34 all law enforcement agencies that receive, maintain, store or preserve forensic examination
35 kits shall complete an inventory of all kits in their possession and shall report their findings
36 to the Department of Public Safety. At a minimum, reported findings to the department
37 must include a breakdown by year by each agency of the number of:

38 1. Completed kits received, including a breakdown of the number of completed kits for
39 which the alleged victim of sexual assault has reported the alleged sexual assault to a law
40 enforcement agency and the number of completed kits for which the alleged victim of
41 sexual assault has not reported the alleged sexual assault to a law enforcement agency;

42 2. Completed kits for which the alleged victim of sexual assault has reported the alleged
43 offense to a law enforcement agency and the kit has not been analyzed by a crime
44 laboratory; and

3. Completed kits that have been returned to the law enforcement agency after analysis by a crime laboratory.

The department shall compile all agency findings and present a report of the inventory by January 1, 2027 to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters. At the same time, the department shall post the report on its publicly accessible website.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill directs the Department of Public Safety to establish, operate and maintain a sexual assault forensic examination kit tracking system for all completed kits regardless of whether the alleged offense related to the kit was reported to a law enforcement agency. The tracking system must be continuously accessible to approved users. The department is required to submit a report by January 1, 2027, and annually thereafter, to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and the Governor concerning information related to the status of sexual assault forensic examination kits reported in the tracking system. The bill provides requirements for the tracking system and requires the department to adopt routine technical rules, including rules regarding participation in the tracking system, confidentiality and the operation of the tracking system.

The bill directs that, by June 1, 2026, a law enforcement agency that receives, maintains, stores or preserves sexual assault forensic examination kits must complete an inventory of all kits in its possession and report its findings to the Department of Public Safety. The department must compile all agency reports and present findings of the inventory by January 1, 2027 to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and at the same time post the report on the department's publicly accessible website.

Public Law 2023, chapter 236 changed a provision in the Maine Revised Statutes, Title 25 to require law enforcement agencies to store sexual assault forensic examination kits for 20 years. For consistency with that provision, this bill amends a provision in Title 24 to require law enforcement agencies to store sexual assault forensic examination kits for 20 years.