

# STATE OF NEW YORK

1337

2025-2026 Regular Sessions

## IN SENATE

January 9, 2025

Introduced by Sens. PARKER, KRUEGER -- read twice and ordered printed,  
and when printed to be committed to the Committee on Internet and  
Technology

AN ACT to amend the executive law, in relation to the processing of  
evidence related to sexual offenses and the inclusion of such results  
in the state DNA identification index

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

- 1 Section 1. Subdivisions 2 and 9 of section 995 of the executive law,  
2 as added by chapter 737 of the laws of 1994, are amended to read as  
3 follows:
- 4 2. For purposes of forensic DNA analysis, the term "forensic DNA labo-  
5 ratory" shall mean any forensic laboratory operated by the state or unit  
6 of local government, that performs forensic DNA testing on crime scenes,  
7 forensic testing on evidence of sexual offenses or materials derived  
8 from the human body for use as evidence in a criminal proceeding or for  
9 purposes of identification and the term "forensic DNA testing" shall  
10 mean any test that employs techniques to examine deoxyribonucleic acid  
11 (DNA) derived from the human body for the purpose of providing informa-  
12 tion to resolve issues of identification. Regulation pursuant to this  
13 article shall not include DNA testing on materials derived from the  
14 human body pursuant to title five of article five of the public health  
15 law for the purpose of determining a person's genetic disease or medical  
16 condition and shall not include a laboratory operated by the federal  
17 government.
- 18 9. "DNA subcommittee" shall mean the subcommittee on forensic DNA  
19 laboratories and forensic DNA and sexual offense forensic evidence test-  
20 ing established pursuant to subdivision thirteen of section nine hundred  
21 ninety-five-b of this article.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 § 2. Paragraph (b) of subdivision 2 of section 995-b of the executive  
2 law, as added by chapter 737 of the laws of 1994, is amended to read as  
3 follows:

4 (b) ensure that forensic analyses, including forensic DNA testing and  
5 sexual offense forensic evidence testing, are performed in accordance  
6 with the highest scientific standards practicable;

7 § 3. Subdivisions 7, 11, 12 and 13 of section 995-b of the executive  
8 law, as added by chapter 737 of the laws of 1994 and paragraph (a) of  
9 subdivision 13 as amended by chapter 560 of the laws of 1999, are  
10 amended to read as follows:

11 7. The commission and DNA subcommittee may establish, appoint, and set  
12 terms of members to as many advisory councils as it deems necessary to  
13 provide specialized expertise to the commission with respect to new  
14 forensic technologies including DNA testing methodologies and sexual  
15 offense forensic evidence testing methodologies.

16 11. Upon the recommendation of the DNA subcommittee established pursu-  
17 ant to subdivision thirteen of this section, the commission shall desig-  
18 nate one or more approved methodologies for the performance of forensic  
19 DNA testing and sexual assault forensic evidence, and shall review and  
20 act upon applications by forensic DNA laboratories for approval to  
21 perform forensic DNA testing.

22 12. Promulgate standards for a determination of a match between the  
23 DNA records contained in the state DNA identification index and a DNA  
24 record of a person or sexual offense forensic evidence submitted for  
25 comparison therewith.

26 13. (a) The commission shall establish a subcommittee on forensic DNA  
27 laboratories and forensic DNA and sexual offense forensic evidence test-  
28 ing. The chair of the subcommittee shall be appointed by the chair of  
29 the commission. The chair of the subcommittee shall appoint six other  
30 members to the subcommittee, one of whom shall represent the discipline  
31 of molecular biology and be appointed upon the recommendation of the  
32 commissioner of the department of health, one of whom shall represent  
33 the discipline of population genetics and be appointed upon the recom-  
34 mendation of the commissioner of the department of health, one of whom  
35 shall be representative of the discipline of laboratory standards and  
36 quality assurance regulation and monitoring and be appointed upon the  
37 recommendation of the commissioner of the department of health, one of  
38 whom shall be a forensic scientist and be appointed upon the recommenda-  
39 tion of the commissioner of the department of health, one of whom shall  
40 be representative of the discipline of population genetics and be  
41 appointed upon the recommendation of the commissioner of criminal  
42 justice services and one of whom shall be representative of the disci-  
43 pline of forensic science and be appointed upon the recommendation of  
44 the commissioner of criminal justice services. Members of the DNA  
45 subcommittee shall serve for three year terms and be subject to the  
46 conditions of service specified in section nine hundred ninety-five-a of  
47 this article.

48 (b) The DNA subcommittee shall assess and evaluate all DNA and sexual  
49 offense forensic evidence methodologies proposed to be used for forensic  
50 analysis, and make reports and recommendations to the commission as it  
51 deems necessary. The DNA subcommittee shall make binding recommendations  
52 for adoption by the commission addressing minimum scientific standards  
53 to be utilized in conducting forensic DNA and sexual offense forensic  
54 evidence analysis including, but not limited to, examination of speci-  
55 mens, population studies and methods employed to determine probabilities  
56 and interpret test results. The DNA subcommittee may require a demon-

1 stration by an independent laboratory of any proposed forensic DNA or  
2 sexual offense forensic evidence testing methodology proposed to be used  
3 by a forensic laboratory.

4 (c) The DNA subcommittee shall make binding recommendations for  
5 adoption by the commission with regard to an accreditation program for  
6 laboratories performing forensic DNA and sexual offense forensic  
7 evidence testing in accordance with the provisions of the state adminis-  
8 trative procedure act. Such recommendations shall include the adoption  
9 and implementation of internal and external proficiency testing  
10 programs, including, if possible, a blind external proficiency testing  
11 program for forensic laboratories performing forensic DNA and sexual  
12 offense forensic evidence testing. The DNA subcommittee shall also  
13 provide the commission with a list of accepted proficiency testers.

14 (d) The DNA subcommittee shall be authorized to advise the commission  
15 on any other matters regarding the implementation of scientific controls  
16 and quality assurance procedures for the performance of forensic DNA and  
17 sexual offense forensic evidence testing, or on any other matters  
18 referred to it by the commission.

19 § 4. Section 995-d of the executive law, as added by chapter 737 of  
20 the laws of 1994 and subdivision 2 as amended by chapter 560 of the laws  
21 of 1999, is amended to read as follows:

22 § 995-d. Confidentiality. 1. All records, findings, reports, and  
23 results of DNA and sexual offense forensic evidence testing performed on  
24 any person shall be confidential and may not be disclosed or redisclosed  
25 without the consent of the subject of such DNA or sexual offense foren-  
26 sic evidence testing. Such records, findings, reports and results shall  
27 not be released to insurance companies, employers or potential employ-  
28 ers, health providers, employment screening or personnel companies,  
29 agencies, or services, private investigation services, and may not be  
30 disclosed in response to a subpoena or other compulsory legal process or  
31 warrant, or upon request or order of any agency, authority, division,  
32 office, corporation, partnership, or any other private or public entity  
33 or person, except that nothing contained herein shall prohibit disclo-  
34 sure in response to a subpoena issued on behalf of the subject of such  
35 DNA or sexual offense forensic evidence record or on behalf of a party  
36 in a civil proceeding where the subject of such DNA or sexual offense  
37 forensic evidence record has put such record in issue.

38 2. Notwithstanding the provisions of subdivision one of this section,  
39 records, findings, reports, and results of DNA testing, other than a DNA  
40 record maintained in the state DNA identification index, may be  
41 disclosed in a criminal proceeding to the court, the prosecution, and  
42 the defense pursuant to a written request on a form prescribed by the  
43 commissioner of the division of criminal justice services. Notwith-  
44 standing the provisions of subdivision one of this section, a DNA or  
45 sexual offense forensic evidence record maintained in the state DNA  
46 identification index may be disclosed pursuant to section nine hundred  
47 ninety-five-c of this article.

48 § 5. Section 995-e of the executive law, as added by chapter 737 of  
49 the laws of 1994, is amended to read as follows:

50 § 995-e. Applicability. This article shall not apply to a forensic DNA  
51 laboratory operated by any agency of the federal government, or to any  
52 forensic DNA test or sexual offense forensic evidence test performed by  
53 any such federal laboratory.

54 § 6. Section 995-f of the executive law, as amended by chapter 560 of  
55 the laws of 1999, is amended to read as follows:

1 § 995-f. Penalties. Any person who (a) intentionally discloses a DNA  
2 record, [~~or~~] the results of a forensic DNA test or analysis, or the  
3 result of a sexual offense forensic evidence test of analysis, to an  
4 individual or agency other than one authorized to have access to such  
5 records pursuant to this article or (b) intentionally uses or receives  
6 DNA records, [~~or~~] the results of a forensic DNA test or analysis, or the  
7 results of a sexual offense forensic evidence test of analysis, for  
8 purposes other than those authorized pursuant to this article or (c) any  
9 person who knowingly tampers or attempts to tamper with any DNA sample  
10 [~~or~~], the collection container or sexual offense forensic evidence  
11 sample without lawful authority shall be guilty of a class E felony.

12 § 7. Subdivisions 6 and 7 of section 995-c of the executive law, as  
13 added by chapter 737 of the laws of 1994, are amended and a new subdivi-  
14 sion 10 is added to read as follows:

15 6. DNA and sexual offense forensic evidence records contained in the  
16 state DNA identification index shall be released only for the following  
17 purposes:

18 (a) to a federal law enforcement agency, or to a state or local law  
19 enforcement agency or district attorney's office for law enforcement  
20 identification purposes upon submission of a DNA record in connection  
21 with the investigation of the commission of one or more crimes or to  
22 assist in the recovery or identification of specified human remains,  
23 including identification of missing persons, provided that there exists  
24 between the division and such agency a written agreement governing the  
25 use and dissemination of such DNA records in accordance with the  
26 provisions of this article;

27 (b) for criminal defense purposes, to a defendant or [~~his or her~~] such  
28 defendant's representative, who shall also have access to samples and  
29 analyses performed in connection with the case in which such defendant  
30 is charged;

31 (c) after personally identifiable information has been removed by the  
32 division, to an entity authorized by the division for the purpose of  
33 creating or maintaining a population statistics database or for iden-  
34 tification research and protocol development for forensic DNA analysis  
35 or quality control purposes; and

36 (d) in the case of a victim of a sexual offense, such victim shall  
37 have access to information regarding:

38 (i) whether a sexual offense forensic evidence test is performed by  
39 any forensic DNA laboratory;

40 (ii) whether the result of a sexual offense forensic evidence test of  
41 analysis was entered into the state DNA identification index; and

42 (iii) whether there is a match between the result of a sexual offense  
43 evidence test of analysis and the state DNA identification index.

44 7. Requests for DNA and sexual offense forensic evidence records must  
45 be in writing, or in a form prescribed by the division authorized by the  
46 requesting party, and, other than a request pursuant to paragraph (b) of  
47 subdivision six of this section, maintained on file at the state DNA  
48 identification index in accordance with rules and regulations promulgat-  
49 ed by the commissioner of the division of criminal justice services.

50 10. (a) The commissioner of criminal justice services, in consultation  
51 with the DNA subcommittee and the commission, is hereby authorized to  
52 establish a plan for the timely testing of sexual offense forensic  
53 evidence and the inclusion of the results of such testing in the DNA  
54 identification index pursuant to the provisions of this article.

55 (b) Any forensic evidence collected or obtained in connection with the  
56 investigation of a crime or offense contained in article one hundred

1 thirty of the penal law shall be included in the state DNA identifica-  
2 tion index pursuant to this article. This subdivision does not require a  
3 forensic DNA laboratory to test all items of forensic evidence obtained  
4 in a sexual offense forensic evidence examination or a sexual offense  
5 investigation. For the purpose of timely processing of sexual offense  
6 forensic evidence, this subdivision intends to ensure that the best  
7 evidence is selected and analyzed as soon as practicable among the  
8 representative sample of forensic evidence, based on the medical exam-  
9 ination or the sexual offense investigation, the collection and preser-  
10 vation of that evidence, and the transfer of the evidence from the  
11 medical facility or the law enforcement agency to the forensic DNA labo-  
12 ratory.

13 (c) (i) No later than ten business days after being booked into  
14 evidence, a law enforcement agency that receives sexual offense forensic  
15 evidence shall forward such evidence to any forensic DNA laboratory  
16 which has been authorized by the commission to perform sexual offense  
17 forensic evidence testing and analysis for inclusion in the state DNA  
18 identification index.

19 (ii) Such laboratory shall perform the requisite testing and analysis  
20 within three months of its receipt of the sexual offense forensic  
21 evidence if sufficient staffing and resources are available. An analysis  
22 shall include an examination of DNA evidence, development of a potential  
23 suspect profile, and the forwarding of the resulting DNA record to the  
24 state DNA identification index in accordance with the regulations of the  
25 division of criminal justice services.

26 (d) The failure of a law enforcement agency to submit sexual offense  
27 forensic evidence within the period required by this subdivision shall  
28 not affect the authority of (i) the agency to submit the evidence to a  
29 forensic DNA laboratory for analysis or (ii) of a forensic DNA laborato-  
30 ry to analyze the evidence or provide the results of the analysis to the  
31 appropriate agencies and the state DNA identification index.

32 (e) A law enforcement agency in possession of sexual offense forensic  
33 evidence that has not been forwarded to a forensic DNA laboratory within  
34 the time frame required by this subdivision shall: (i) by September  
35 first of each year submit to the division of criminal justice services a  
36 list of the agency's active criminal cases for which sexual offense  
37 forensic evidence has not yet been forwarded to a forensic DNA laborato-  
38 ry; and (ii) submit to the division of criminal justice services or a  
39 forensic DNA laboratory, as appropriate and subject to the availability  
40 of storage space, all sexual offense forensic evidence pertaining to  
41 those active criminal cases that has not yet been submitted for lab  
42 analysis within two years after the effective date of this subdivision.

43 (f) No later than one year after the effective date of this subdivi-  
44 sion, the division of criminal justice services shall submit to the  
45 governor and the appropriate legislative committees of the senate and  
46 the assembly a request for any necessary funding to accomplish analyses  
47 of sexual offense forensic evidence required by this subdivision.

48 (g) The division of criminal justice services may solicit appropriate  
49 grants and funding opportunities in furtherance of the activities  
50 required by this subdivision from foundations, other governmental agen-  
51 cies and individuals, under such terms and conditions as the division  
52 shall deem appropriate.

53 § 8. This act shall take effect September 1, 2026.