

# STATE OF NEW YORK

10317

## IN ASSEMBLY

May 17, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Paulin) --  
read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to collecting and reporting sexual offense evidence on the statewide electronic tracking system

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

1 Section 1. Paragraph (j) of subdivision 2 of section 2805-i of the  
2 public health law, as amended by section 1 of part II of chapter 56 of  
3 the laws of 2021, is amended to read as follows:

4 (j) Notwithstanding any other provision in this section, sexual  
5 offense evidence shall not continue to be stored where: (i) such  
6 evidence is not privileged and law enforcement requests its release, in  
7 which case the custodian(s) shall comply with such request; or (ii) such  
8 evidence is privileged and either (A) the alleged sexual offense victim  
9 gives permission to release the evidence to law enforcement, upon which  
10 law enforcement must retrieve the evidence within three days of such  
11 permission and report such evidence in the statewide electronic tracking  
12 system pursuant to subdivision eight of this section, or (B) the alleged  
13 sexual offense victim signs a statement directing the custodian(s) to  
14 dispose of the evidence, in which case the sexual offense evidence will  
15 be discarded in compliance with state and local health codes.

16 § 2. Subdivision 8 of section 2805-i of the public health law, as  
17 amended by chapter 31 of the laws of 2023, is amended to read as  
18 follows:

19 8. (a) The division of criminal justice services in consultation with  
20 the department, the office of victim services, the division of state  
21 police, and the New York State Coalition Against Sexual Assault shall  
22 develop a statewide electronic tracking system for reported evidence  
23 collection kits used to collect and preserve evidence of a sexual  
24 assault or other sex offense [~~that are submitted to the custody of law~~  
25 ~~enforcement~~]. Such statewide electronic tracking system shall not  
26 include unreported evidence collection kits [~~not in the custody of law~~  
27 ~~enforcement~~], provided, however, that any unreported evidence collection

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

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1 kits released by the office of victim services to law enforcement pursu-  
2 ant to clause (A) of subparagraph (i) of paragraph j of subdivision two  
3 of this section shall be designated as reported evidence collection kits  
4 subject to the tracking requirements set forth in this subdivision.

5 (b) The division of criminal justice services shall promulgate rules  
6 and guidelines to ensure that sexual assault evidence collection kits  
7 [~~that are submitted to the custody of law enforcement~~] are trackable on  
8 a statewide electronic tracking system developed pursuant to this subdivi-  
9 sion, and that survivors are given notice of how they may track their  
10 own [~~sexual assault~~] reported evidence collection kit [~~after it has been~~  
11 ~~submitted to the custody of law enforcement~~]. Such rules and guidelines  
12 shall require that (i) hospitals collecting evidence collection kits  
13 record the collection of any reported evidence collection kits in the  
14 electronic tracking system and notify the appropriate law enforcement  
15 agency within forty-eight hours of such collection, and (ii) law  
16 enforcement retrieve any reported evidence collection kit from a hospi-  
17 tal within three days of being notified by a hospital that a reported  
18 evidence collection kit has been collected. Any hospital, law enforce-  
19 ment agency, forensic laboratory, or prosecutor that has taken custody  
20 of an evidence collection kit used for a forensic medical examination  
21 shall comply with the established protocols, rules and guidelines estab-  
22 lished by the division of criminal justice services pursuant to this  
23 paragraph.

24 (c) The statewide electronic tracking system shall:

25 (1) Track the location and status of each reported evidence collection  
26 kit [~~after such kit has been submitted to the custody of law enforce-~~  
27 ~~ment~~] from collection to final disposition;

28 (2) Allow a hospital, law enforcement agency, accredited crime labora-  
29 tory, prosecutor, employees of the long-term sexual offense evidence  
30 storage facility, or any other entity providing a chain of custody for  
31 [~~an~~] a reported evidence collection kit, to update and track the status  
32 and location of the reported evidence collection kits [~~that have been~~  
33 ~~submitted to the custody of law enforcement~~]; and

34 (3) Allow a survivor to anonymously track or receive updates regarding  
35 the status and location of such survivor's reported evidence collection  
36 kit [~~that has been submitted to the custody of law enforcement~~].

37 (d) No later than January first, two thousand twenty-five, any hospi-  
38 tal, law enforcement agency, accredited crime laboratory, prosecutor,  
39 employee of the long-term sexual offense evidence storage facility, or  
40 any other entity providing a chain of custody for [~~an~~] a reported  
41 evidence collection kit to update and track the status and location of  
42 such kit, shall participate in the tracking system and comply with all  
43 established protocols, rules and guidelines. A participating entity  
44 shall be permitted to access the entity's tracking information through  
45 the statewide electronic tracking system.

46 (e) Records entered into the tracking system are confidential. Records  
47 relating to [~~an~~] a reported evidence collection kit shall be accessed  
48 only by the survivor for whom the reported evidence collection kit was  
49 completed.

50 (f) The provisions of this subdivision shall apply to all reported  
51 evidence collection kits submitted prior to, on, or after the effective  
52 date of this subdivision.

53 (g) For purposes of this section:

54 (1) "evidence collection kit" shall mean a human biological specimen  
55 or specimens collected by a healthcare provider during a forensic

1 medical examination from the victim of a sexual assault or other sex  
2 offense; [~~and~~]

3 (2) "survivor" shall mean an individual who is the victim of a sexual  
4 offense from whom a human biological specimen or specimens collected by  
5 a healthcare provider during a forensic medical examination[~~;~~];

6 (3) "reported evidence collection kit" means a sexual assault evidence  
7 kit in which the survivor has consented to evidence collection and  
8 reporting the sexual assault or other sex offense to law enforcement;  
9 and

10 (4) "unreported evidence collection kit" means evidence collection  
11 kits controlled by the office of victims services pursuant to paragraph  
12 (d) of subdivision two of this section.

13 § 3. This act shall take effect immediately, provided, however, that  
14 the addition, amendment and/or repeal of any rule or regulation  
15 necessary for the implementation of this act shall be completed within  
16 three months of such effective date.