

STATE OF NEW YORK

9585

IN SENATE

March 26, 2026

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to sexual offense evidence collection kit procedures

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

1 Section 1. Paragraphs (a), (c), (f), (i) and (j) of subdivision 2 of
2 section 2805-i of the public health law, as amended by section 1 of part
3 II of chapter 56 of the laws of 2021, paragraph (j) as amended by
4 section 1 of part II of chapter 56 of the laws of 2021, are amended and
5 a new paragraph (k) is added to read as follows:

6 (a) All sexual offense evidence shall be kept in a locked, separate
7 and secure area for twenty years from the date of collection or until
8 the victim's fortieth birthday, whichever is later; provided that such
9 evidence shall be transferred to a new location(s) pursuant to this
10 subdivision.

11 (c) Upon collection, the hospital shall notify the alleged sexual
12 offense victim that, after twenty years or until the victim's fortieth
13 birthday, whichever is later, the sexual offense evidence will be
14 discarded in compliance with state and local health codes and that the
15 alleged sexual offense victim's clothes or personal effects will be
16 returned to the alleged sexual offense victim at any time upon request.
17 The alleged sexual offense victim shall be given the option of providing
18 contact information for purposes of receiving notice of the planned
19 destruction of such evidence after the expiration of the twenty-year
20 period or until the victim's fortieth birthday, whichever is later.

21 (f) Between thirty and ten days prior to the transfer of sexual
22 offense evidence to the office of victim services, hospitals shall make
23 diligent efforts to notify the alleged sexual offense victim of the
24 transfer of custody for the remainder of the twenty-year storage period
25 or until the victim's fortieth birthday, whichever is later.

26 (i) At least ninety days prior to the expiration of the twenty-year
27 storage period for any sexual offense evidence or until the victim's
28 fortieth birthday, whichever is later, the office of victim services

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

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1 shall make diligent efforts to contact the alleged sexual offense victim
2 to notify the alleged sexual offense victim that the sexual offense
3 evidence will be discarded in compliance with state and local health
4 codes and that the alleged sexual offense victim's clothes and personal
5 effects will be returned to the alleged sexual offense victim upon
6 request.

7 (j) (i) Notwithstanding any other provision in this section, sexual
8 offense evidence shall not continue to be stored where: [~~(i)~~] (A) such
9 evidence is not privileged and law enforcement requests its release, in
10 which case the [~~custodian(s)~~] custodian or custodians shall comply with
11 such request; or [~~(ii)~~] (B) such evidence is privileged and either [~~(A)~~]
12 (1) the alleged sexual offense victim gives permission to release the
13 evidence to law enforcement, upon which the hospital collecting such
14 evidence must record the collection of such evidence in the electronic
15 tracking system and notify the appropriate law enforcement agency within
16 forty-eight hours and law enforcement must retrieve the evidence within
17 ten days of such notice and report such evidence in the statewide elec-
18 tronic tracking system pursuant to subdivision eight of this section, or
19 [~~(B)~~] (2) the alleged sexual offense victim signs a statement directing
20 the [~~custodian(s)~~] custodian or custodians to dispose of the evidence,
21 in which case the sexual offense evidence will be discarded in compli-
22 ance with state and local health codes. Where the alleged sexual
23 offense victim is under the age of eighteen, a vulnerable elderly
24 person, or an incompetent or physically disabled person as defined in
25 section 260.31 of the penal law, the office of victim services shall not
26 destroy sexual offense evidence at the direction of a parent, guardian,
27 conservator, or other party.

28 (ii) Where the alleged sexual offense victim is under the age of eigh-
29 teen and had capacity to independently consent to a forensic rape exam,
30 such victim may independently request the destruction of sexual offense
31 evidence or may independently make decisions impacting the status of
32 their kit as "reported" or "unreported" as defined in subparagraphs
33 three and four of paragraph (g) of subdivision eight of this section.

34 (k) Where the alleged sexual offense victim was under the age of eigh-
35 teen at the time of the alleged sexual offense, the office of victim
36 services shall, upon the victim's eighteenth birthday, make diligent
37 efforts to contact the alleged sexual offense victim and provide infor-
38 mation described in section six hundred forty-one of the executive law
39 and subparagraphs one, five, six, seven and eight of paragraph (a) of
40 subdivision six of this section.

41 § 2. Paragraph (j) of subdivision 2 of section 2805-i of the public
42 health law, as amended by chapter 47 of the laws of 2026, is amended to
43 read as follows:

44 (j) (i) Notwithstanding any other provision in this section, sexual
45 offense evidence shall not continue to be stored where: [~~(i)~~] (A) such
46 evidence is not privileged and law enforcement requests its release, in
47 which case the custodian or custodians shall comply with such request;
48 or [~~(ii)~~] (B) such evidence is privileged and either [~~(A)~~] (1) the
49 alleged sexual offense victim gives permission to release the evidence
50 to law enforcement, upon which the hospital collecting such evidence
51 must record the collection of such evidence in the electronic tracking
52 system and notify the appropriate law enforcement agency within forty-
53 eight hours and law enforcement must retrieve the evidence within ten
54 days of such notice and report such evidence in the statewide electronic
55 tracking system pursuant to subdivision eight of this section, or [~~(B)~~]
56 (2) the alleged sexual offense victim signs a statement directing the

1 custodian or custodians to dispose of the evidence, in which case the
2 sexual offense evidence will be discarded in compliance with state and
3 local health codes. Where the alleged sexual offense victim is under
4 the age of eighteen, a vulnerable elderly person, or an incompetent or
5 physically disabled person as defined in section 260.31 of the penal
6 law, the office of victim services shall not destroy sexual offense
7 evidence at the direction of a parent, guardian, conservator, or other
8 party.

9 (ii) Where the alleged sexual offense victim is under the age of eigh-
10 teen and had capacity to independently consent to a forensic rape exam,
11 such victim may independently request the destruction of sexual offense
12 evidence or may independently make decisions impacting the status of
13 their kit as "reported" or "unreported" as defined in subparagraphs
14 three and four of paragraph (g) of subdivision eight of this section.

15 § 3. Subparagraph 6 of paragraph (a) of subdivision 6 of section
16 2805-i of the public health law, as added by chapter 407 of the laws of
17 2018, is amended to read as follows:

18 (6) be notified between thirty and ten days prior to the transfer of a
19 sexual offense evidence kit from the hospital to another storage facili-
20 ty in accordance with paragraph (h) of subdivision two of this section,
21 the right to have a sexual offense evidence kit maintained at an appro-
22 priate storage facility for twenty years from the date of collection or
23 until the victim's fortieth birthday, whichever is later, the right, if
24 not previously consented to, to consent to release the evidence to law
25 enforcement at any time during the twenty years from collection, and the
26 right to be notified by such facility at least ninety days prior to the
27 expiration of the twenty-year storage period in accordance with para-
28 graph ~~(*)~~ (i) of subdivision two of this section; and

29 § 4. Subdivision 7 of section 2805-i of the public health law, as
30 added by chapter 1 of the laws of 2000 and as renumbered by chapter 407
31 of the laws of 2018, is amended to read as follows:

32 7. ~~[On or before November thirtieth, two thousand two, the commis-~~
33 ~~er shall make a report to the governor, the temporary president of the~~
34 ~~senate and the speaker of the assembly concerning the sexual assault~~
35 ~~forensic examiner program established under subdivision four-b of this~~
36 ~~section. Such report shall include an evaluation of the efficacy of such~~
37 ~~program in obtaining useful forensic evidence in sexual offense cases~~
38 ~~and assuring quality treatment to sex offense victims. Such report shall~~
39 ~~also recommend whether this program should be expanded and shall esti-~~
40 ~~mate the financial cost, if any, of such expansion.]~~ (a) The division of
41 criminal justice services and the office of victim services, in consul-
42 tation with the division of state police forensic investigations center
43 and the department, shall convene a working group to:

44 (1) address the creation of a coordinated tracking system for sexual
45 offense evidence kits;

46 (2) assess and make recommendations related to the forensic testing of
47 sexual offense evidence collection kits when a survivor declines to
48 report to law enforcement; and

49 (3) make recommendations to strengthen existing sexual offense
50 evidence collection and testing for all sexual offense evidence kits.

51 (b) The working group shall report its findings and recommendations to
52 the governor, the temporary president of the senate, and the speaker of
53 the assembly on or before November thirtieth, two thousand twenty-six.

54 § 5. Subdivision 8 of section 2805-i of the public health law, as
55 amended by chapter 31 of the laws of 2023, is amended to read as
56 follows:

1 8. (a) The division of criminal justice services in consultation with
2 the department, the office of victim services, the division of state
3 police, and the New York State Coalition Against Sexual Assault shall
4 develop a statewide electronic tracking system for reported evidence
5 collection kits used to collect and preserve evidence of a sexual
6 assault or other sex offense [~~that are submitted to the custody of law~~
7 ~~enforcement. Such statewide electronic tracking system shall not include~~
8 ~~evidence collection kits not in the custody of law enforcement~~].

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

28 (c) The statewide electronic tracking system shall:

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

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

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

41 (4) Incorporate any relevant findings from the working group refer-
42 enced in subdivision seven of this section.

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

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

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

4 (g) For purposes of this section:

5 (1) "evidence collection kit" shall mean a human biological specimen
6 or specimens collected by a healthcare provider during a forensic
7 medical examination from the victim of a sexual assault or other sex
8 offense; ~~and~~

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

12 (3) "reported evidence collection kit" means a sexual assault evidence
13 kit in which the survivor has consented to evidence collection and
14 forensic testing; and

15 (4) "unreported evidence collection kit" means a sexual offense
16 evidence collection kit for which the survivor has not consented or has
17 withdrawn consent to either forensic testing or reporting to law
18 enforcement.

19 § 6. Subdivision 8 of section 2805-i of the public health law, as
20 amended by chapter 47 of the laws of 2026, is amended to read
21 as follows:

22 8. (a) The division of criminal justice services in consultation with
23 the department, the office of victim services, the division of state
24 police, and the New York State Coalition Against Sexual Assault shall
25 develop a statewide electronic tracking system for reported evidence
26 collection kits used to collect and preserve evidence of a sexual
27 assault or other sex offense. ~~[Such statewide electronic tracking system~~
28 ~~shall not include unreported evidence collection kits, provided, howev-~~
29 ~~er, that any unreported evidence collection kits released by the office~~
30 ~~of victim services to law enforcement pursuant to clause (A) of subpara-~~
31 ~~graph (ii) of paragraph (j) of subdivision two of this section shall~~
32 ~~then be designated as reported evidence collection kits subject to the~~
33 ~~tracking requirements set forth in this subdivision.]~~

34 (b) The division of criminal justice services shall promulgate rules
35 and guidelines to ensure that sexual offense evidence collection kits
36 are trackable on a statewide electronic tracking system developed pursu-
37 ant to this subdivision, and that survivors are given notice of how they
38 may track their own reported evidence collection kit. Any law enforce-
39 ment agency, forensic laboratory, or prosecutor that has taken custody
40 of an evidence collection kit used for a forensic medical examination
41 shall comply with the established protocols, rules and guidelines estab-
42 lished by the division of criminal justice services pursuant to this
43 paragraph.

44 (c) The statewide electronic tracking system shall:

45 (1) Track the location and status of each reported evidence collection
46 kit from collection to final disposition;

47 (2) Allow a hospital, law enforcement agency, accredited crime labora-
48 tory, prosecutor, employees of the long-term sexual offense evidence
49 storage facility, or any other entity providing a chain of custody for a
50 reported evidence collection kit, to update and track the status and
51 location of the reported evidence collection kits; ~~and~~

52 (3) Allow a survivor to anonymously track or receive updates regarding
53 the status and location of such survivor's reported evidence collection
54 kit~~[-]; and~~

55 (4) Incorporate any relevant findings from the working group refer-
56 enced in subdivision seven of this section.

1 (d) No later than [~~January~~ December] first, two thousand [~~twenty-five~~
2 twenty-seven], any hospital, law enforcement agency, accredited crime
3 laboratory, prosecutor, employee of the long-term sexual offense
4 evidence storage facility, or any other entity providing a chain of
5 custody for a reported evidence collection kit to update and track the
6 status and location of such kit, shall participate in the tracking
7 system and comply with all established protocols, rules and guidelines.
8 A participating entity shall be permitted to access the entity's track-
9 ing information through the statewide electronic tracking system.

10 (e) Records entered into the tracking system are confidential. Records
11 relating to a reported evidence collection kit shall be accessed only by
12 the survivor for whom the reported evidence collection kit was
13 completed.

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

17 (g) For purposes of this section:

18 (1) "evidence collection kit" shall mean a human biological specimen
19 or specimens collected by a healthcare provider during a forensic
20 medical examination from the victim of a sexual assault or other sex
21 offense;

22 (2) "survivor" shall mean an individual who is the victim of a sexual
23 offense from whom a human biological specimen or specimens were
24 collected by a healthcare provider during a forensic medical examina-
25 tion;

26 (3) "reported evidence collection kit" means a sexual offense evidence
27 kit in which the survivor has consented to evidence collection and
28 [~~reporting the sexual assault or other sex offense to law enforcement~~]
29 forensic testing; and

30 (4) "unreported evidence collection kit" means a sexual offense
31 evidence collection kit for which the survivor has not consented to or
32 withdraws their consent to release to law enforcement.

33 § 7. This act shall take effect immediately; provided, however, that
34 sections one, two and three of this act shall take effect on the five
35 hundred forty-fifth day after it shall have become a law; provided
36 further, however, that if chapter 47 of the laws of 2026 shall not have
37 taken effect on or before such dates then sections two and six of this
38 act shall take effect on the same date and in the same manner as such
39 chapter of the laws of 2026, takes effect.