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:

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

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

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

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

(i) At least ninety days prior to the expiration of the twenty-year storage period for any sexual offense evidence **or until the victim's 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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shall make diligent efforts to contact the alleged sexual offense victim to notify the alleged sexual offense victim that the sexual offense evidence will be discarded in compliance with state and local health codes and that the alleged sexual offense victim's clothes and personal effects will be returned to the alleged sexual offense victim upon request.

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

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

(k) Where the alleged sexual offense victim was under the age of eighteen at the time of the alleged sexual offense, the office of victim services shall, upon the victim's eighteenth birthday, make diligent efforts to contact the alleged sexual offense victim and provide information described in section six hundred forty-one of the executive law and subparagraphs one, five, six, seven and eight of paragraph (a) of subdivision six of this section.

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

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

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

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

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

(6) be notified between thirty and ten days prior to the transfer of a sexual offense evidence kit from the hospital to another storage facility in accordance with paragraph (h) of subdivision two of this section, the right to have a sexual offense evidence kit maintained at an appropriate storage facility for twenty years from the date of collection **or until the victim's fortieth birthday, whichever is later**, the right, if not previously consented to, to consent to release the evidence to law enforcement at any time during the twenty years from collection, and the right to be notified by such facility at least ninety days prior to the expiration of the twenty-year storage period in accordance with paragraph [~~(k)~~] **(i)** of subdivision two of this section; and

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

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

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

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

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

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

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

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

(b) The division of criminal justice services shall promulgate rules and guidelines to ensure that sexual assault evidence collection kits [~~that are submitted to the custody of law enforcement~~] are trackable on a statewide electronic tracking system developed pursuant to this subdivision, and that survivors are given notice of how they may track their own [~~sexual assault~~] **reported** evidence collection kit [~~after it has been submitted to the custody of law enforcement~~]. **Such rules and guidelines shall require that (i) hospitals collecting evidence collection kits record the collection of any reported evidence collection kits in the electronic tracking system and notify the appropriate law enforcement agency within forty-eight hours of such collection, and (ii) law enforcement retrieve any reported evidence collection kit from a hospital within seven days of being notified by a hospital that a reported evidence collection kit has been collected.** Any **hospital,** law enforcement agency, forensic laboratory, or prosecutor that has taken custody of an evidence collection kit used for a forensic medical examination shall comply with the established protocols, rules and guidelines established by the division of criminal justice services pursuant to this paragraph.

(c) The statewide electronic tracking system shall:

(1) Track the location and status of each **reported** evidence collection kit [~~after such kit has been submitted to the custody of law enforcement~~] **from collection to final disposition**;

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

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

(4) Incorporate any relevant findings from the working group referenced in subdivision seven of this section.

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

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

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

(g) For purposes of this section:

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

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

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

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

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

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

(b) The division of criminal justice services shall promulgate rules and guidelines to ensure that sexual offense evidence collection kits are trackable on a statewide electronic tracking system developed pursuant to this subdivision, and that survivors are given notice of how they may track their own reported evidence collection kit. Any law enforcement agency, forensic laboratory, or prosecutor that has taken custody of an evidence collection kit used for a forensic medical examination shall comply with the established protocols, rules and guidelines established by the division of criminal justice services pursuant to this paragraph.

(c) The statewide electronic tracking system shall:

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

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

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

(4) Incorporate any relevant findings from the working group referenced in subdivision seven of this section.

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

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

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

(g) For purposes of this section:

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

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

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

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

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