§ 2805-i. Treatment of sexual offense victims and maintenance of evidence in a sexual offense. 1. Every hospital providing treatment to alleged victims of a sexual offense shall be responsible for:

* (a) maintaining sexual offense evidence and the chain of custody as provided in subdivision two of this section;

* NB Effective until May 9, 2027

* (a) Maintaining the following full-time, part-time, contracted, or on-call staff:

(1) One or more hospital sexual violence response coordinators who are designated to ensure that the hospital's sexual violence response is integrated within the hospital's clinical oversight and quality improvement structure, to ensure chain of custody is maintained, and to ensure availability and coordination of certified sexual assault forensic examiners;

(2) Certified sexual assault forensic examiners sufficient to meet hospital needs. Such individuals shall:

(i) be a registered professional nurse, certified nurse practitioner, licensed physician assistant or licensed physician acting within their lawful scope of practice and specially trained in forensic examination of sexual offense victims and the preservation of forensic evidence in such cases and qualified to provide such services, pursuant to regulations promulgated by the commissioner; and

(ii) have successfully completed a didactic and clinical training course and post course preceptorship as appropriate to scope of practice that aligns with guidance released by the commissioner.

* NB Effective May 9, 2027

* (b) informing sexual offense victims of the availability of rape crisis and local victim assistance organizations, if any, in the geographic area served by the hospital, and contacting a rape crisis or local victim assistance organization to establish the coordination of non-medical services, including but not limited to transportation within the geographic area served by that organization, upon the conclusion of initial medical services, free of charge from the medical facility to sexual offense victims who request such coordination and services;

* NB Effective until May 9, 2027

* (b) Ensuring that such sexual assault forensic examiners are on-call and available on a twenty-four hour a day basis every day of the year;

* NB Effective May 9, 2027

* (c) offering and making available appropriate HIV post-exposure treatment therapies; including the full regimen of HIV post-exposure prophylaxis in cases where it has been determined, in accordance with guidelines issued by the commissioner, that a significant exposure to HIV has occurred, and informing the victim that payment assistance for such therapies and other crime related expenses may be available from the office of victim services pursuant to the provisions of article twenty-two of the executive law. With the consent of the victim of a sexual assault, the hospital emergency room department shall provide or arrange for an appointment for medical follow-up related to HIV post-exposure prophylaxis and other care as appropriate; and

* NB Effective until May 9, 2027

* (c) Ensuring that such sexual assault forensic examiners maintain a current certification from the department, pursuant to regulations, in providing sexual assault examinations. The commissioner shall issue regulations consistent with subparagraph one of paragraph (b) of subdivision four-b of this section, establishing a process for individuals to apply for and receive certification upon meeting the required criteria, as well as a process for recertification.

* NB Effective May 9, 2027

* (d) ensuring sexual assault survivors are not billed for sexual assault forensic exams and are notified orally and in writing of the option to decline to provide private health insurance information and have the office of victim services reimburse the hospital for the exam pursuant to subdivision thirteen of section six hundred thirty-one of the executive law.

* NB Effective until May 9, 2027

* (d) maintaining sexual offense evidence and the chain of custody as provided in subdivision two of this section;

* NB Effective May 9, 2027

* (e) informing sexual offense victims of the availability of rape crisis and local victim assistance organizations, if any, in the geographic area served by the hospital, and contacting a rape crisis or local victim assistance organization to establish the coordination of non-medical services, including but not limited to transportation within the geographic area served by that organization, upon the conclusion of

initial medical services, free of charge from the medical facility to sexual offense victims who request such coordination and services;

* NB Effective May 9, 2027

* (f) offering and making available appropriate HIV post-exposure treatment therapies; including the full regimen of HIV post-exposure prophylaxis in cases where it has been determined, in accordance with guidelines issued by the commissioner, that a significant exposure to HIV has occurred, and informing the victim that payment assistance for such therapies and other crime related expenses may be available from the office of victim services pursuant to the provisions of article twenty-two of the executive law. With the consent of the victim of a sexual assault, the hospital emergency room department shall provide or arrange for an appointment for medical follow-up related to HIV post-exposure prophylaxis and other care as appropriate; and

* NB Effective May 9, 2027

* (g) ensuring sexual assault survivors are not billed for sexual assault forensic exams and are notified orally and in writing of the option to decline to provide private health insurance information and have the office of victim services reimburse the hospital for the exam pursuant to subdivision thirteen of section six hundred thirty-one of the executive law.

* NB Effective May 9, 2027

2. Sexual offense evidence shall be collected and maintained 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; provided that such evidence shall be transferred to a new location(s) pursuant to this subdivision.

* NB Effective until December 2, 2027

* (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.

* NB Effective December 2, 2027

(b) Sexual offense evidence shall include, but not be limited to,

slides, cotton swabs, clothing and other items. Where appropriate, such items shall be refrigerated and the clothes and swabs shall be dried, stored in paper bags, and labeled. Each item of evidence shall be marked and logged with a code number corresponding to the alleged sexual offense victim's medical record.

* (c) Upon collection, the hospital shall notify the alleged sexual offense victim that, after twenty years, 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.

* NB Effective until December 2, 2027

* (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.

* NB Effective December 2, 2027

(d) Until September thirtieth, two thousand twenty-two, or earlier if determined feasible by the director of budget, hospitals shall be responsible for securing long-term sexual offense evidence pursuant to this section, after which such storage shall be the responsibility of the office of victim services, provided, however, that law enforcement shall transfer sexual offense evidence that is reported to law enforcement but for which consent is later withdrawn to the office of victim services for long-term storage. Storage of reported kits transferred to the office of victim services or retained by law enforcement shall comport with the provisions of this subdivision. Hospitals may enter into contracts with other entities that will ensure

appropriate and secure long-term storage of sexual offense evidence pursuant to this section until September thirtieth, two thousand twenty-two.

(e) Beginning April first, two thousand eighteen, the department, the office of victim services, the division of criminal justice services and the division of state police shall jointly study, evaluate and make recommendations concerning the storage and monitoring of sexual offense evidence for twenty years, including studying options for the use of: state-owned or operated facilities; facilities owned or operated by local government or law enforcement agencies; and facilities owned or operated by private entities.

* (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.

* NB Effective until December 2, 2027

* (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.

* NB Effective December 2, 2027

(g) On September thirtieth, two thousand twenty-two, or earlier if determined feasible by the director of budget, responsibility for long-term storage of sexual offense evidence shall transfer to the office of victim services.

(h) After September thirtieth, two thousand twenty-two, or earlier if determined feasible by the director of budget, hospitals shall ensure transfer of sexual offense evidence collected pursuant to this section to the office of victim services within ten days of collection of such evidence, while maintaining chain of custody.

* (i) At least ninety days prior to the expiration of the twenty-year storage period for any sexual offense evidence, the office of victim services 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.

* NB Effective until December 2, 2027

* (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 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.

* NB Effective December 2, 2027

* (j) Notwithstanding any other provision in this section, sexual offense evidence shall not continue to be stored where: (i) 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) such evidence is privileged and either (A) 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) 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.

* NB Effective until December 2, 2027

* (j) (i) Notwithstanding any other provision in this section, sexual offense evidence shall not continue to be stored where: (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 (B) such evidence is privileged and either (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 (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.

* NB Effective December 2, 2027

* (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.

* NB Effective December 2, 2027

3. Upon admittance or commencement of treatment of the alleged sexual offense victim, the hospital shall advise the victim of the availability of the services of a local rape crisis or victim assistance organization, if any, to accompany the victim through the sexual offense examination. If after receiving such advice the sexual offense victim wishes the presence of a rape crisis or victim assistance advocate, the

hospital shall contact the appropriate organization and request that one be provided, provided, however, that if in the professional judgment of the treating practitioner a delay in treatment is detrimental to the provision of medical treatment, then examination or treatment need not be delayed pending the arrival of such advocate and further provided that the presence or continued presence of such advocate does not interfere with the provision of necessary medical care to the victim.

4. No hospital or treating practitioner shall be liable in civil damages for failing to comply with the requirements of subdivision one, two or three of this section or acting in good faith to provide treatment as provided in subdivision three of this section.

4-a. On and after April first, two thousand one, a hospital providing treatment to alleged victims of sexual offenses shall be eligible to receive from the division of criminal justice services, at no cost, sexual offense evidence collection kits.

4-b. (a) The commissioner shall, with the consent of the directors of interested hospitals in the state and in consultation with the commissioner of the division of criminal justice services, designate hospitals in the state as the sites of a twenty-four hour sexual assault forensic examiner program. The hospital sites shall be designated in urban, suburban and rural areas to give as many state residents as possible ready access to the sexual assault forensic examiner program. The commissioner, in consultation with the commissioner of the division of criminal justice services, shall consider the following criteria when designating these sexual assault forensic examiner program sites:

(1) the location of the hospital;

(2) the hospital's capacity to provide on-site comprehensive medical services to victims of sexual offenses;

(3) the capacity of the hospital site to coordinate services for victims of sexual offenses including medical treatment, rape crisis counseling, psychological support, law enforcement assistance and forensic evidence collection;

(4) the hospital's capacity to provide access to the sexual assault forensic examiner site for disabled victims;

(5) the hospital's existing services for victims of sexual offenses;

(6) the capacity of the hospital site to collect uniform data and insure confidentiality of such data; and

(7) the hospital's compliance with state and federally mandated standards of medical care.

(b) Each sexual assault forensic examiner program site designated pursuant to this subdivision shall comply with the requirements of subdivisions one, two and three of this section, and shall also provide treatment to the victim as follows:

(1) The victim shall, absent exigent circumstances, be met by a sexual assault forensic examiner within sixty minutes of arriving at the hospital, who shall be a nurse practitioner, physician assistant, registered nurse or physician specially trained in forensic examination of sexual offense victims and the preservation of forensic evidence in such cases and certified as qualified to provide such services pursuant to regulations promulgated by the commissioner. Such program shall assure that such a specially-trained forensic examiner is on-call and available on a twenty-four hour a day basis every day of the year.

(2) An examination of the victim shall be performed promptly by such forensic examiner in a private room designated for such examinations. An obstetrician/gynecologist or other appropriate medical doctor shall be readily available to the forensic examiner if there is a need for more specialized medical evaluation or treatment.

(3) Promptly after the examination is completed, the victim shall be permitted to shower, be provided with a change of clothing, be informed that a rape crisis or victim assistance organization providing victim assistance to the geographic area served by that hospital is available to provide transportation within the geographic area served by that organization, upon the conclusion of initial medical services, free of charge from the medical facility, and receive follow-up information, counseling, medical treatment and referrals for same.

(c) Nothing in this subdivision shall affect the existence or continued existence of any program in this state through which a trained nurse practitioner, physician assistant, registered nurse or physician is providing appropriate forensic examinations and related services to survivors of sexual assault.

5. The commissioner shall promulgate such rules and regulations as may be necessary and proper to carry out effectively the provisions of this section. Prior to promulgating such rules and regulations, the commissioner shall consult with relevant police agencies, forensic laboratories, rape crisis centers, hospitals, and other such persons as the commissioner deems necessary. Such rules and regulations shall identify the offenses subject to the provisions of this section, provide a specific definition of sexual offense evidence and require each hospital to contact its local police agency and forensic laboratory to determine their specific needs or requirements.

6. (a) The department, in consultation with the division of criminal justice services, the office of victim services, hospitals, other health care providers and victim advocacy organizations, shall publish a sexual assault victim bill of rights for purposes of informing sexual offense victims of their rights under state law. Such bill of rights shall be prominently published on the department's website, in at least the ten most common languages spoken in this state, and distributed to hospitals as a document which shall be provided to every presenting sexual offense victim. The department may update the bill of rights as necessary to reflect changes in state law and more accurately explain the law. Such bill of rights shall be in plain, easy to understand language, and include the right of the victim to:

(1) consult with a local rape crisis or local victim assistance organization, to have a representative of such organization accompany the victim through the sexual offense examination, to have such an organization be summoned by the medical facility, police agency, prosecutorial agency or other law enforcement agency before the commencement of the physical examination or interview, pursuant to this section, and to have such organization provide transportation within the geographic area served by that organization, free of charge from the medical facility to sexual offense victims who request such services upon discharge;

(2) be offered and have made available at no cost appropriate post-exposure treatment therapies, including a seven day starter pack of HIV post-exposure prophylaxis in accordance with paragraph (c) of subdivision one of this section and subdivision thirteen of section six

hundred thirty-one of the executive law;

(3) a health care forensic examination at no cost and the right to be notified of the option to decline to provide private health insurance information and have the office of victim services reimburse the hospital for the examination under subdivision thirteen of section six hundred thirty-one of the executive law;

(4) receive information relating to and the provision of emergency contraception in accordance with section twenty-eight hundred five-p of this article;

(5) be offered contact information for the police agency, prosecutorial agency or other law enforcement agency with jurisdiction over the sexual offense and be informed, upon request of the victim, of the date and location at which such sexual offense evidence kit was assessed for Combined DNA Index System (CODIS) eligibility and analyzed, whether a CODIS eligible profile was developed and whether or not a DNA match was identified, provided, however, that the police agency, prosecutorial agency or other law enforcement agency serving the jurisdiction may temporarily delay release of such DNA match information to the victim, prior to the arrest of a suspect alleged to have committed such offense, if such agency documents in writing and notifies the victim that release of such information would compromise the successful investigation of such sexual offense;

* (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, 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) of subdivision two of this section; and

* NB Effective until December 2, 2027

* (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 (i) of subdivision two of this section; and

* NB Effective December 2, 2027

(7) be notified by the prosecutorial agency with jurisdiction of judicial proceedings relating to their case in accordance with article twenty-three of the executive law; and

(8) decide whether or not the victim wishes to report the offense to law enforcement.

(b) Before a medical facility commences a physical examination of a sexual offense victim, or a police agency, prosecutorial agency or other law enforcement agency commences an interview of a sexual offense victim, the health care professional conducting the exam, police agency, prosecutorial agency or other law enforcement agency shall inform the victim of the victim's rights by providing a copy of this sexual assault victim bill of rights and offering to explain such rights.

7. (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.

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.

(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;

(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 December first, two thousand 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 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.