

## CHAPTER 2016-72

### Committee Substitute for Committee Substitute for Senate Bill No. 636

An act relating to evidence collected in sexual offense investigations; creating s. 943.326, F.S.; requiring that a sexual offense evidence kit or other DNA evidence be submitted to a member of the statewide criminal analysis laboratory system within a specified timeframe after specified occurrences; requiring a medical provider or law enforcement agency to inform an alleged victim of a sexual offense of certain information relating to sexual offense evidence kits; requiring the retention of specified evidence; requiring adoption and dissemination of guidelines and procedures by certain entities by a specified date; requiring the testing of sexual offense evidence kits within a specified timeframe after submission to a member of the statewide criminal analysis laboratory; providing requirements for such guidelines and procedures; providing construction; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 943.326, Florida Statutes, is created to read:

943.326 DNA evidence collected in sexual offense investigations.—

(1) A sexual offense evidence kit, or other DNA evidence if a kit is not collected, must be submitted to a member of the statewide criminal analysis laboratory system under s. 943.32 for forensic testing within 30 days after:

(a) Receipt of the evidence by a law enforcement agency if a report of the sexual offense is made to the law enforcement agency; or

(b) A request to have the evidence tested is made to the medical provider or the law enforcement agency by:

1. The alleged victim;

2. The alleged victim's parent, guardian, or legal representative, if the alleged victim is a minor; or

3. The alleged victim's personal representative, if the alleged victim is deceased.

(2) An alleged victim or, if applicable, the person representing the alleged victim under subparagraph (1)(b)2. or subparagraph (1)(b)3. must be informed of the purpose of submitting evidence for testing and the right to request testing under subsection (1) by:

(a) A medical provider conducting a forensic physical examination for purposes of a sexual offense evidence kit; or

(b) A law enforcement agency that collects other DNA evidence associated with the sexual offense if a kit is not collected under paragraph (a).

(3) A collected sexual offense evidence kit must be retained in a secure, environmentally safe manner until the prosecuting agency has approved its destruction.

(4) By January 1, 2017, the department and each laboratory within the statewide criminal analysis laboratory system, in coordination with the Florida Council Against Sexual Violence, shall adopt and disseminate guidelines and procedures for the collection, submission, and testing of DNA evidence that is obtained in connection with an alleged sexual offense. The timely submission and testing of sexual offense evidence kits is a core public safety issue. Testing of sexual offense evidence kits must be completed no later than 120 days after submission to a member of the statewide criminal analysis laboratory system.

(a) The guidelines and procedures must include the requirements of this section, standards for how evidence is to be packaged for submission, what evidence must be submitted to a member of the statewide criminal analysis laboratory system, and timeframes for when the evidence must be submitted, analyzed, and compared to DNA databases.

(b) The testing requirements of this section are satisfied when a member of the statewide criminal analysis laboratory system tests the contents of the sexual offense evidence kit in an attempt to identify the foreign DNA attributable to a suspect. If a sexual offense evidence kit is not collected, the laboratory may receive and examine other items directly related to the crime scene, such as clothing or bedding or personal items left behind by the suspect. If probative information is obtained from the testing of the sexual offense evidence kit, the examination of other evidence should be based on the potential evidentiary value to the case and determined through cooperation among the investigating agency, the laboratory, and the prosecutor.

(5) A violation of this section does not create:

(a) A cause of action or a right to challenge the admission of evidence.

(b) A cause of action for damages or any other relief.

Section 2. This act shall take effect July 1, 2016.

Approved by the Governor March 23, 2016.

Filed in Office Secretary of State March 23, 2016.