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# A BILL FOR AN ACT

RELATING TO SEXUAL ASSAULT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 844D, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§844D-       Sexual assault kit tracking program. (a) The  
5 department, in consultation with the department of the attorney  
6 general, shall establish a sexual assault kit tracking program  
7 to ensure that sexual assault kits are obtained and analyzed in  
8 a timely manner. The program shall require that:

9           (1) Beginning July 1, 2016, any law enforcement agency  
10           that receives a sexual assault kit obtained in  
11           connection with the investigation of a criminal case  
12           shall submit that sexual assault kit within ten  
13           business days of receipt to a laboratory authorized to  
14           analyze crime scene samples under section 844D-51;

15           (2) Any authorized laboratory that receives a sexual  
16           assault kit from a law enforcement agency shall  
17           complete analysis of that sexual assault kit within



1           six months of receipt; provided that sufficient  
2           staffing and resources are available;

3           (3) The results of all sexual assault kits submitted for  
4           analysis and analyzed shall be uploaded, pursuant to  
5           rules and internal operations established by the  
6           department, to the state DNA database and data bank  
7           identification program and the Federal Bureau of  
8           Investigation Combined DNA Index System; and

9           (4) Any law enforcement agency that receives a sexual  
10           assault kit obtained in connection with the  
11           investigation of a criminal case shall provide written  
12           notice annually to the department of the attorney  
13           general, in a form and manner prescribed by the  
14           department of the attorney general, stating the number  
15           of sexual assault kits related to a criminal  
16           investigation in the custody of the department, or a  
17           designated entity, that have not been submitted to a  
18           laboratory for analysis.

19           (b) The department of the attorney general shall make  
20           arrangements with one or more laboratories authorized to analyze  
21           crime scene samples under section 844D-51 to ensure that all



1 sexual assault kits that were collected prior to July 1, 2016,  
2 and that are the subject of a criminal investigation are  
3 analyzed and that the results are entered into the state DNA  
4 database and data bank identification program and the Federal  
5 Bureau of Investigation Combined DNA Index System.

6 (c) The failure of a law enforcement agency to submit a  
7 sexual assault kit collected on or before July 1, 2016, pursuant  
8 to subsection (a) shall in no way alter the authority of the law  
9 enforcement agency to submit the sexual assault kit, the  
10 authority of a laboratory to accept and analyze the sexual  
11 assault kit, or the authority of the department to maintain or  
12 upload the results into the state DNA database and data bank  
13 identification program and the Federal Bureau of Investigation  
14 Combined DNA Index System.

15 (d) All sexual assault kit evidence submitted for analysis  
16 pursuant to this section shall be accompanied by the following  
17 signed certification:

18 "This evidence is being submitted by (name of investigating  
19 law enforcement agency) in connection with a prior or  
20 current criminal investigation."



1       (e) Evidence derived from the analysis of any sexual  
2 assault kit is not made inadmissible in court by the fact that  
3 it was not processed and analyzed within the timeframes required  
4 by this section.

5       (f) If the department receives written confirmation from  
6 the investigating law enforcement agency or the department  
7 otherwise determines that a record that has been uploaded into  
8 the state DNA database and data bank identification program and  
9 the Federal Bureau of Investigation Combined DNA Index System  
10 was not connected to a criminal investigation, the record shall  
11 be expunged from the state DNA database and data bank  
12 identification program pursuant to rules and procedures  
13 established by the department and from the Federal Bureau of  
14 Investigation Combined DNA Index System. The failure to expunge  
15 a record or strictly comply with this subsection shall not be  
16 grounds for challenging the validity of a state DNA database and  
17 data bank identification program and the Federal Bureau of  
18 Investigation Combined DNA Index System match or other  
19 information, and evidence based upon or derived from the state  
20 DNA database and data bank identification program and the



1 Federal Bureau of Investigation Combined DNA Index System may  
2 not be excluded by a court for these reasons.

3 (g) The department of the attorney general shall adopt  
4 rules necessary to carry out the purposes of this section."

5 SECTION 2. Section 844D-1, Hawaii Revised Statutes, is  
6 amended by amending the definitions of "print impression",  
7 "sample", and "specimen" to read as follows:

8 "Print impression" means any fingerprint, thumbprint, palm  
9 print, or set of fingerprints or palm prints designated in the  
10 department's rules or internal regulations [~~adopted pursuant to~~  
11 ~~section 844D-3~~].

12 "Sample" means human biologic material collected in a  
13 manner specified in the department's rules or internal  
14 regulations [~~adopted pursuant to section 844D-3~~], including but  
15 not limited to, saliva collected by means of buccal swab.

16 "Specimen" means human biologic material collected in a  
17 manner specified in the department's rules or internal  
18 regulations [~~adopted pursuant to section 844D-3~~], including but  
19 not limited to blood."

20 SECTION 3. The police department of each county, the  
21 department of public safety, and the division of conservation



1 and resources enforcement shall report their findings and  
 2 recommendations regarding the sexual assault kit tracking  
 3 program, including any proposed legislation, to the legislature  
 4 no later than twenty days prior to the convening of the regular  
 5 session of 2017. The report shall include the respective number  
 6 of unprocessed sexual assault kits collected statewide prior to  
 7 July 1, 2016, and the most up to date information on the  
 8 reduction of any backlog. The police department of each county,  
 9 the department of public safety, and the division of  
 10 conservation and resources enforcement shall make the report  
 11 available to the public on their respective websites.

12 SECTION 4. Statutory material to be repealed is bracketed  
 13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect upon its approval.  
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# S.B. NO. 2309

**Report Title:**

Evidence; Sexual Assault Kit Tracking Program

**Description:**

Establishes the sexual assault kit tracking program. Requires a law enforcement agency to submit sexual assault kits obtained in connection to a criminal investigation to an authorized laboratory within 10 days, the laboratory to complete analysis within 6 months, and results to be uploaded to the state DNA database and data bank identification program and the Federal Bureau of Investigation Combined DNA Index System. Requires each law enforcement agency that obtains a sexual assault kit in connection to a criminal investigation to report to the department of the attorney general annually on the number of sexual assault kits in its possession. Requires the police department of each county, the department of public safety, and the division of conservation and resources enforcement to submit a report to the legislature prior to the convening of the regular session 2017 on the number of kits in its possession and progress on any backlog. Requires the legislative reports to be made available to the public.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

