
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 of the prosecuting attorney of each county, in
6 consultation with the department of the attorney general, shall
7 establish a sexual assault kit tracking program for the
8 respective county to ensure that sexual assault kits are
9 obtained and analyzed in a timely manner. The program shall
10 require that:

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

17 (2) Any authorized laboratory that receives a sexual
18 assault kit from a law enforcement agency shall



1 complete analysis of that sexual assault kit within
2 six months of receipt; provided that sufficient
3 staffing and resources are available;

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

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

20 (b) The department of the attorney general shall make
21 arrangements with one or more laboratories authorized to analyze



1 crime scene samples under section 844D-51 to ensure that all
2 sexual assault kits that were collected prior to July 1, 2016,
3 and that are the subject of a criminal investigation are
4 analyzed and that the results are entered into the state DNA
5 database and data bank identification program and the Federal
6 Bureau of Investigation Combined DNA Index System.

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

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

19 "This evidence is being submitted by (name of investigating
20 law enforcement agency) in connection with a prior or
21 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 of the prosecuting attorney for any
6 county receives written confirmation from the investigating law
7 enforcement agency or the department of the prosecuting attorney
8 otherwise determines that a record that has been uploaded into
9 the state DNA database and data bank identification program and
10 the Federal Bureau of Investigation Combined DNA Index System
11 was not connected to a criminal investigation, the record shall
12 be expunged from the state DNA database and data bank
13 identification program pursuant to rules and procedures
14 established by the department and from the Federal Bureau of
15 Investigation Combined DNA Index System. The failure to expunge
16 a record or strictly comply with this subsection shall not be
17 grounds for challenging the validity of the state DNA database
18 and data bank identification program and the Federal Bureau of
19 Investigation Combined DNA Index System match or other
20 information, and evidence based upon or derived from the state
21 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 prosecuting attorney of each
4 county shall adopt rules necessary to carry out the purposes of
5 this section."

6 SECTION 2. Section 844D-1, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By amending the definition of "print impression" to
9 read:

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

14 2. By amending the definition of "sample" to read:

15 "Sample" means human biologic material collected in a
16 manner specified in the department's rules or internal
17 regulations [~~adopted pursuant to section 844D-3~~], including but
18 not limited to [7] saliva collected by means of buccal swab."

19 3. By amending the definition of "specimen" to read:

20 "Specimen" means human biologic material collected in a
21 manner specified in the department's rules or internal



1 regulations [~~adopted pursuant to section 844D-3~~], including but
2 not limited to blood."

3 SECTION 3. The department of the prosecuting attorney of
4 each county shall review the sexual assault kit tracking program
5 and report its respective findings and recommendations regarding
6 the program, including any proposed legislation, to the
7 legislature no later than twenty days prior to the convening of
8 the regular session of 2017. The report shall include the
9 respective number of unprocessed sexual assault kits collected
10 statewide prior to July 1, 2016, and the most up to date
11 information on the reduction of any backlog. The department of
12 the prosecuting attorney of each county shall make the report
13 available to the public on its respective website.

14 SECTION 4. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$ or so much
16 thereof as may be necessary for fiscal year 2016-2017 for the
17 department of the attorney general to ensure that all sexual
18 assault kits that were collected prior to July 1, 2016, and that
19 are the subject of a criminal investigation are analyzed.

20 The sum appropriated shall be expended by the department of
21 the attorney general for the purposes of this Act.



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect upon its approval;
4 provided that section 4 shall take effect on July 1, 2016.



Report Title:

Evidence; Sexual Assault Kit Tracking Program; Established;
Appropriation

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 the custody of HPD that have not been submitted for analysis. Requires the prosecuting attorney of each county to submit a report to the legislature prior to the convening of the regular session 2017 on the number of untested kits and any progress on reducing the backlog. Requires the legislative reports to be made available to the public. Appropriates moneys. (SD2)

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