

# HOUSE BILL NO. 6244

June 16, 2022, Introduced by Reps. Rabhi, Kuppa, Hope, Brabec, Aiyash, Stone, Brixie and Scott and referred to the Committee on Judiciary.

A bill to amend 2014 PA 227, entitled "Sexual assault kit evidence submission act," by amending the title and sections 3 and 4 (MCL 752.933 and 752.934).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 TITLE  
2 An act to create the sexual assault kit evidence submission  
3 act; to provide for the collection of sexual assault kit evidence;  
4 to prescribe the powers and duties of certain state and local

1 government departments and agencies; to establish certain  
2 procedures regarding the collection, handling, and disposition of  
3 sexual assault kit evidence; **to establish certain permissible uses**  
4 **of sexual assault kit evidence; to prohibit certain uses of sexual**  
5 **assault kit evidence;** and to prohibit the exclusion of sexual  
6 assault kit evidence under certain circumstances.

7       Sec. 3. (1) A health care facility that has obtained written  
8 consent to release sexual assault kit evidence shall notify the  
9 investigating law enforcement agency, if known, or the law  
10 enforcement agency having jurisdiction in that portion of the local  
11 unit of government in which the medical facility is located of that  
12 fact ~~within~~**not more than** 24 hours after obtaining that consent.  
13 **The written consent document required under this subsection must**  
14 **inform the individual from whom the sexual assault kit evidence was**  
15 **obtained that his or her genetic information will not be utilized**  
16 **in any manner prohibited under section 4.**

17       (2) A health care facility that has not obtained written  
18 consent to release any sexual assault kit evidence shall inform the  
19 individual from whom sexual assault kit evidence was obtained of  
20 its sexual assault kit evidence storage policy. The information  
21 provided under this subsection ~~shall~~**must** include a statement of  
22 the period for which that evidence will be stored before it is  
23 destroyed and how the individual can have the evidence released to  
24 the investigating law enforcement agency at a later date. Any  
25 sexual assault kit evidence that is not released to a law  
26 enforcement agency under this section ~~shall~~**must** be stored for a  
27 ~~minimum of~~**not less than** 1 year before it is destroyed.

28       Sec. 4. (1) A law enforcement agency that receives notice  
29 under section 3 that sexual assault kit evidence has been released

1 to that law enforcement agency shall take possession of the sexual  
2 assault kit evidence from the health care facility ~~within~~**not more**  
3 **than** 14 days after receiving that notice.

4 (2) If a law enforcement agency described in subsection (1)  
5 determines that the alleged sexual assault occurred within the  
6 jurisdiction of another law enforcement agency and that it does not  
7 otherwise have jurisdiction over that assault, that law enforcement  
8 agency shall notify the other law enforcement agency of that fact  
9 ~~within~~**not more than** 14 days after receiving the kit from the  
10 health care facility that collected the sexual assault kit  
11 evidence.

12 (3) A law enforcement agency that receives notice under  
13 subsection (2) shall take possession of the sexual assault kit  
14 evidence from the other law enforcement agency ~~within~~**not more than**  
15 14 days after receiving that notice.

16 (4) The investigating law enforcement agency that takes  
17 possession of any sexual assault kit evidence shall assign a  
18 criminal complaint number to that evidence in the manner required  
19 by that agency and shall submit that evidence to the department or  
20 another accredited laboratory for analysis ~~within~~**not more than** 14  
21 days after that law enforcement agency takes possession of that  
22 evidence under this section. Sexual assault kit evidence that was  
23 received by a law enforcement agency ~~within~~**not more than** 30 days  
24 before ~~the effective date of this act shall~~**March 31, 2015, must**  
25 also be submitted to the department or other accredited laboratory  
26 as provided in this section.

27 (5) Each submission of sexual assault kit evidence for  
28 analysis under this act ~~shall~~**must** be accompanied by the criminal  
29 complaint number required under subsection (4).

1           (6) All sexual assault kit evidence submitted to the  
2 department or an accredited laboratory on or after ~~the effective~~  
3 ~~date of this act shall~~ **March 31, 2015, must** be analyzed ~~within~~ **not**  
4 **more than** 90 days after all of the necessary evidence is received  
5 by the department or other accredited laboratory, provided that  
6 sufficient staffing and resources are available to do so.

7           (7) ~~The~~ **Subject to subsection (8), the** DNA profiles of all  
8 sexual assault kit evidence analyzed under this section on or after  
9 ~~the effective date of this act shall~~ **March 31, 2015, must** be  
10 uploaded only into those databases at the state and national levels  
11 specified by the department.

12           (8) **The victim's DNA profile must not be retained by the law**  
13 **enforcement agency or uploaded to any databases.**

14           (9) All of the following apply to the use of a victim's DNA  
15 profile:

16           (a) It may be analyzed and identified as the victim's DNA  
17 profile for the purpose of distinguishing a victim's DNA profile  
18 from the perpetrator's DNA profile.

19           (b) It may only be used to establish genetic familial  
20 relationships if the establishment of those genetic familial  
21 relationships is relevant to the investigation of the sexual  
22 assault at issue.

23           (c) It must not be used as evidence against the victim, or his  
24 or her genetic relative, in any manner in an unrelated criminal  
25 investigation or criminal prosecution. The prohibition under this  
26 subdivision, includes, but is not limited to, using a victim's DNA  
27 profile for purposes of identification of the victim, or his or her  
28 genetic relative, as a suspect in an unrelated criminal  
29 investigation or criminal prosecution.

1           (d) It must not be used to screen the victim for any genetic  
2 conditions or traits.

3           (10) The department or other accredited laboratory shall not  
4 conduct a subsequent analysis of sexual assault kit evidence that  
5 remains in the custody of the laboratory for the time period  
6 required by law for the purpose of obtaining the victim's genetic  
7 information for any other investigation.

8           (11) A law enforcement agency shall not request a subsequent  
9 analysis of sexual assault kit evidence that remains in the custody  
10 of the department or other accredited laboratory for the time  
11 period required by law for the purpose of obtaining the victim's  
12 genetic information for any other investigation.

13           (12) ~~(8)~~—The failure of a law enforcement agency to take  
14 possession of sexual assault kit evidence as provided in this act  
15 or to submit that evidence to the department or other accredited  
16 laboratory within the time prescribed under this act does not alter  
17 the authority of the law enforcement agency to take possession of  
18 that evidence or to submit that evidence to the department or other  
19 accredited laboratory under this act and does not alter the  
20 authority of the department or other accredited laboratory to  
21 accept and analyze the evidence or to upload the DNA profile **of the**  
22 **perpetrator** obtained from that evidence into state and national DNA  
23 databases under this act.

24           (13) ~~(9)~~—The failure to comply with the requirements of this  
25 act ~~does is~~ not ~~constitute~~ grounds in any criminal proceeding for  
26 challenging the validity of a database match or of any database  
27 information, and any evidence of that DNA record ~~shall~~**must** not be  
28 excluded by a court on those grounds.

29           (14) ~~(10)~~—A person accused or convicted of committing a crime

1 against the victim has no standing to object to any failure to  
2 comply with the requirements of this act, and the failure to comply  
3 with the requirements of this act is not grounds for setting aside  
4 the conviction or sentence.