

ASSEMBLY, No. 2810

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:

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District 7 (Burlington)

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District 33 (Hudson)

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District 23 (Hunterdon, Somerset and Warren)

SYNOPSIS

Requires sexual assault forensic evidence to be preserved for 10 years.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/24/2020)

1 AN ACT concerning sexual assault forensic evidence and
2 supplementing Title 52 of the Revised Statutes

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4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

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7 1. As used in this act:

8 “Custodian” means any governmental, public or private person
9 or entity within this State responsible for the storage of sexual
10 assault forensic evidence, including, but not limited to, law
11 enforcement agencies, prosecutors’ offices, courts, health care
12 facilities, and crime laboratories.

13 “Law enforcement agency” means municipal, county, State, or
14 federal law enforcement agencies involved in the investigation of
15 sexual assault cases in this State.

16 “Sexual assault forensic evidence” means forensic evidence
17 collected in connection with a sexual assault investigation,
18 including, but not limited to, evidence collected during a forensic
19 sexual assault examination.

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21 2. a. Sexual assault forensic evidence shall be retained for not
22 less than 10 years from the date the evidence was collected, and
23 where the alleged victim is a minor, for not less than 10 years after
24 the alleged victim reaches the age of 18 regardless of whether the
25 sexual assault crime has been reported to a law enforcement agency
26 or the collected evidence has been released by the alleged victim to
27 a law enforcement agency.

28 b. Within 30 days of the collection of evidence, the custodian
29 of the sexual assault forensic evidence shall notify the alleged
30 sexual assault victim that after 10 years, the evidence may be
31 discarded.

32 The custodian of the sexual assault forensic evidence shall
33 ensure that diligent efforts are made to contact the alleged sexual
34 assault victim and repeat the notification more than 30 days prior to
35 the sexual assault forensic evidence being discarded in accordance
36 with this section.

37 c. The county prosecutor or the Director of the Division of
38 Criminal Justice may authorize the destruction of the evidence after
39 the 10-year preservation period.

40 After the expiration of the 10-year period, if the county
41 prosecutor determines that the sexual assault forensic evidence
42 should be destroyed, the county prosecutor shall notify the director
43 to provide the division the opportunity to take custody of the sexual
44 assault forensic evidence and assume responsibility for its
45 continued retention.

46 d. The custodians of the sexual assault evidence may enter into
47 contracts with other entities that will ensure appropriate storage of
48 sexual assault forensic evidence pursuant to this section.

1 3. This act shall take effect immediately.

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STATEMENT

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6 This bill would require every custodian of sexual assault forensic
7 evidence to preserve any sexual assault forensic evidence secured in
8 relation to an investigation or prosecution of a crime for 10 years
9 from the date the evidence was collected, and where the alleged
10 victim is a minor, for not less than 10 years after the alleged victim
11 reaches the age of 18. Currently, under Attorney General
12 Guidelines, sexual assault forensic evidence is to be preserved by
13 the county prosecutor for at least five years. After five years, the
14 Attorney General's Office may take possession of the evidence and
15 continue to preserve it.

16 The bill's provisions apply to all sexual assault forensic evidence
17 collected and retained for its potential evidentiary value in the
18 investigation of a rape or sexual assault, including any forensic
19 evidence collected and retained before the effective date of this act.

20 The bill also requires the custodian of sexual assault forensic
21 evidence to notify the alleged victim within 30 days after the
22 evidence is collected that the evidence may be discarded after 10
23 years. The bill further requires that the custodian make diligent
24 efforts to notify the alleged victim more than 30 days prior to the
25 sexual assault forensic evidence being discarded.

26 It is crucial that sexual assault forensic evidence be appropriately
27 preserved so that it can be used to solve old crimes, enhance public
28 safety, settle claims of innocence, and allow victims of sexual
29 assault to report the crime to a law enforcement agency when they
30 are mentally and emotionally prepared to do so.