

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 396

H.P. 305

House of Representatives, January 29, 2019

**An Act To Support Justice for Victims of Sexual Assault by
Increasing the Time Sexual Assault Forensic Examination Kits Must
Be Stored**

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative MAXMIN of Nobleboro.
Cosponsored by Senator CHENETTE of York and
Representatives: COOPER of Yarmouth, INGWERSEN of Arundel, MORALES of South
Portland, SYLVESTER of Portland, WARREN of Hallowell, Senator: HERBIG of Waldo.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 24 MRSA §2986, sub-§3**, as amended by PL 2011, c. 59, §1, is further
3 amended to read:

4 **3. Completed kit.** If the alleged victim has not reported the alleged offense to a law
5 enforcement agency when the examination is complete, the hospital or health care
6 practitioner shall then notify the nearest law enforcement agency, which shall transport
7 and store the completed forensic examination kit for at least 90 days a period of time
8 equal to the period of limitations under Title 17-A, section 8 for the underlying crime
9 under Title 17-A, chapter 11. The completed kit may be identified only by the tracking
10 number. If during that 90-day storage period an alleged victim decides to report the
11 alleged offense to a law enforcement agency, the alleged victim may contact the hospital
12 or health care practitioner to determine the tracking number. The hospital or health care
13 practitioner shall provide the alleged victim with the tracking number on the forensic
14 examination kit and shall inform the alleged victim which law enforcement agency is
15 storing the kit.

16 If the alleged victim reports the alleged offense to a law enforcement agency by the time
17 the examination is complete, the investigating agency shall retain custody of the forensic
18 examination kit. Except for when the forensic examination kit is being processed or
19 analyzed by a 3rd party or unless preservation is required by Title 15, section 2138,
20 subsection 14, the investigating agency shall store the forensic examination kit for a
21 period of time equal to the period of limitations under Title 17-A, section 8 for the
22 underlying crime under Title 17-A, chapter 11 or until the underlying crime is prosecuted
23 and a conviction is obtained, whichever comes first.

24 If an examination is performed under subsection 5 and the alleged victim does not, within
25 60 days, regain a state of consciousness adequate to decide whether or not to report the
26 alleged offense, the State may file a motion in the District Court relating to storing or
27 processing the forensic examination kit. Upon finding good cause and after considering
28 factors, including, but not limited to, the possible benefits to public safety in processing
29 the kit and the likelihood of the alleged victim's regaining a state of consciousness
30 adequate to decide whether or not to report the alleged offense in a reasonable time, the
31 District Court may order either that the kit be stored for additional time or that the kit be
32 transported to the Maine State Police Crime Laboratory for processing, or such other
33 disposition that the court determines just. In the interests of justice or upon motion by the
34 State, the District Court may conduct hearings required under this paragraph
35 confidentially and in camera and may impound pleadings and other records related to
36 them.

37 **Sec. 2. 25 MRSA §3821, 2nd ¶**, as amended by PL 2017, c. 156, §4, is further
38 amended to read:

39 If an alleged victim of sexual assault has a forensic examination and has not reported
40 the alleged offense to a law enforcement agency when the examination is complete, the
41 licensed hospital or licensed health care practitioner that completed the forensic
42 examination shall notify the nearest law enforcement agency. That law enforcement
43 agency shall transport the completed forensic examination kit, identified only by a

1 tracking number assigned by the kit manufacturer, to its evidence storage facility. The
2 law enforcement agency shall store the forensic examination kit for at least 90 days from
3 the time of receipt a period of time equal to the period of limitations under Title 17-A,
4 section 8 for the underlying crime under Title 17-A, chapter 11. If during that 90-day
5 storage period the alleged victim reports the offense to a law enforcement agency, the
6 investigating agency shall take possession of the forensic examination kit. Except for
7 when the forensic examination kit is being processed or analyzed by a 3rd party or unless
8 preservation is required by Title 15, section 2138, subsection 14, the investigating agency
9 shall store the forensic examination kit for a period of time equal to the period of
10 limitations under Title 17-A, section 8 for the underlying crime under Title 17-A, chapter
11 11 or until the underlying crime is prosecuted and a conviction is obtained, whichever
12 comes first.

13 **SUMMARY**

14 This bill changes the period that a law enforcement agency must store a sexual
15 assault forensic examination kit when the victim has not come forward from 90 days from
16 receipt of the kit to the period of time equal to the limitations period for the underlying
17 crime. This bill also requires investigating agencies in possession of a sexual assault
18 forensic examination kit when the victim has come forward to store the kit for the period
19 of time equal to the limitations period for the underlying crime or until the underlying
20 crime has been prosecuted and a conviction has been obtained, whichever comes first.