

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2025

Legislative Document

No. 549

S.P. 199

In Senate, February 11, 2025

**An Act to Establish a Statewide Sexual Assault Forensic
Examination Kit Tracking System and Update Certain
Requirements Regarding Sexual Assault Forensic Examination Kits**

(EMERGENCY)

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BENNETT of Oxford.
Cosponsored by Representative GEIGER of Rockland and
Senators: LIBBY of Cumberland, MOORE of Washington, RAFFERTY of York,
Representatives: ANKELES of Brunswick, ARATA of New Gloucester, Speaker FECTEAU
of Biddeford, GRAMLICH of Old Orchard Beach, STOVER of Boothbay.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the creation of a statewide sexual assault forensic examination kit tracking
4 system and an inventory of all sexual assault forensic examination kits in the possession of
5 law enforcement agencies has already begun pursuant to a federal grant, which will end in
6 June 2025, leaving the tracking system and inventory only partially complete; and

7 **Whereas,** this legislation requires the establishment of a tracking system, allowing
8 the already started work to continue without interruption; and

9 **Whereas,** the immediate passage of this legislation is critical to strengthen the State's
10 enforcement of sexual assault laws and response to sexual assault; and

11 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
12 the meaning of the Constitution of Maine and require the following legislation as
13 immediately necessary for the preservation of the public peace, health and safety; now,
14 therefore,

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

16 **Sec. 1. 24 MRSA §2986, sub-§3,** as amended by PL 2019, c. 94, §1, is further
17 amended to read:

18 **3. Completed kit.** If the alleged victim has not reported the alleged offense to a law
19 enforcement agency when the examination is complete, the hospital or health care
20 practitioner shall then notify the nearest law enforcement agency, which shall transport and
21 store the completed forensic examination kit for 8 20 years. The completed kit may be
22 identified only by the tracking number. If during that storage period an alleged victim
23 decides to report the alleged offense to a law enforcement agency, the alleged victim may
24 contact the hospital or health care practitioner to determine the tracking number. The
25 hospital or health care practitioner shall provide the alleged victim with the tracking
26 number on the forensic examination kit and shall inform the alleged victim which law
27 enforcement agency is storing the kit.

28 An alleged victim who has not reported the alleged offense to a law enforcement agency
29 may request that a completed forensic examination kit be transported to the Maine State
30 Police Crime Laboratory and be processed by signing a consent form indicating that the
31 alleged victim wants the kit to be tested, and the results of the analysis must be kept
32 anonymous.

33 If the alleged victim reports the alleged offense to a law enforcement agency by the time
34 the examination is complete, the investigating agency shall retain custody of the forensic
35 examination kit.

36 If an examination is performed under subsection 5 and the alleged victim does not, within
37 60 days, regain a state of consciousness adequate to decide whether or not to report the
38 alleged offense, the State may file a motion in the District Court relating to storing or
39 processing the forensic examination kit. Upon finding good cause and after considering
40 factors, including, but not limited to, the possible benefits to public safety in processing the
41 kit and the likelihood of the alleged victim's regaining a state of consciousness adequate to
42 decide whether or not to report the alleged offense in a reasonable time, the District Court
43 may order either that the kit be stored for additional time or that the kit be transported to

1 the Maine State Police Crime Laboratory for processing, or such other disposition that the
2 court determines just. In the interests of justice or upon motion by the State, the District
3 Court may conduct hearings required under this paragraph confidentially and in camera
4 and may impound pleadings and other records related to them.

5 A law enforcement agency shall store a completed forensic examination kit involving
6 alleged sexual assault for 20 years regardless of whether the alleged offense is reported to
7 a law enforcement agency.

8 Beginning January 1, 2027, completed forensic examination kits must be transported to the
9 Maine State Police Crime Laboratory and be processed.

10 Beginning January 1, 2027, and every 5 years thereafter, a law enforcement agency shall
11 transport to the Maine State Police Crime Laboratory completed forensic examination kits
12 that are being stored by that law enforcement agency and that identify an alleged victim.
13 Beginning with the kits most recently stored by the law enforcement agency, the Maine
14 State Police Crime Laboratory shall process those kits on a rolling basis. The Department
15 of Public Safety shall adopt rules to implement testing requirements under this subsection.
16 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
17 chapter 375, subchapter 2-A.

18 **Sec. 2. 25 MRSA §2915-A** is enacted to read:

19 **§2915-A. Sexual assault forensic examination kit tracking system**

20 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
21 following terms have the following meanings.

22 A. "Crime laboratory" means the Maine State Police Crime Laboratory located in
23 Augusta or another laboratory that provides forensic services to law enforcement
24 agencies for the purpose of analyzing forensic examination kits.

25 B. "Department" means the Department of Public Safety.

26 C. "Forensic examination kit" or "kit" means a uniform standardized forensic
27 examination kit developed by the department pursuant to section 2915, subsection 1
28 for evidence collection by a licensed health care provider in alleged cases of sexual
29 assault.

30 D. "Law enforcement agency" means the State Police, a county law enforcement
31 agency or a municipal law enforcement agency.

32 E. "Licensed health care provider" means:

33 (1) A hospital licensed under Title 22, chapter 405; or

34 (2) A health care practitioner who is licensed by this State to provide or otherwise
35 lawfully providing health care or a partnership or corporation made up of such
36 health care practitioners.

37 F. "Sexual assault" means a crime enumerated in Title 17-A, chapter 11.

38 G. "Tracking system" means the forensic examination kit tracking system established
39 by the department pursuant to subsection 2.

40 **2. Forensic examination kit tracking system.** The department shall establish,
41 operate and maintain a tracking system for all completed forensic examination kits,

1 regardless of whether the alleged offense relating to the kit was reported to a law
2 enforcement agency, that is continuously accessible to approved users.

3 A. The department shall establish, operate and maintain the tracking system through
4 the use of department personnel and resources and may contract with public or private
5 entities, including, but not limited to, software and technology providers, to accomplish
6 the department's duties related to the tracking system.

7 B. Approved users shall adhere to the following procedures when entering information
8 for each kit into the tracking system, which must, at a minimum, collect the following
9 information.

10 (1) A crime laboratory shall enter into the tracking system each new and unused
11 kit and record each kit's intended destination before the kit leaves the possession
12 of the crime laboratory.

13 (2) A licensed health care provider shall enter into the tracking system the date it
14 receives each kit from a crime laboratory.

15 (3) A licensed health care provider shall identify when a kit was used for evidence
16 collection and enter into the tracking system the date when the kit was used.

17 (4) A licensed health care provider shall identify when a completed kit is
18 transferred to a law enforcement agency and to which law enforcement agency it
19 is transferred and enter into the tracking system the date when the kit was
20 transferred.

21 (5) A licensed health care provider shall identify when a kit is discarded based on
22 damage to the kit or its use in training and enter into the tracking system the date
23 on which the kit was discarded.

24 (6) A law enforcement agency shall enter into the tracking system the date it
25 receives a completed kit and the location where the completed kit is being stored.

26 (7) A law enforcement agency in possession of a completed kit shall enter into the
27 tracking system the date that law enforcement agency reports to a prosecuting
28 attorney that a forensic examination has been performed pursuant to Title 24,
29 section 2986.

30 (8) A crime laboratory shall identify when it has conducted an analysis of a
31 completed kit and enter into the tracking system the date of the analysis.

32 (9) A law enforcement agency that receives a kit after analysis from a crime
33 laboratory shall identify when it received the kit and whether that kit was stored or
34 destroyed.

35 C. The tracking system must provide for the updating and tracking of a forensic
36 examination kit as follows.

37 (1) An alleged victim of sexual assault from whom forensic evidence has been
38 collected using a kit must have access to the tracking system on an anonymous and
39 secure basis for the purposes of receiving updates regarding the kit and tracking
40 the status of the kit.

41 (2) A licensed health care provider, law enforcement agency, prosecuting attorney
42 or any other entity in possession of a kit must have access to the tracking system

1 for the purposes of entering, updating and tracking the status and location of the
2 kit.

3 **3. Participation required.** Law enforcement agencies, licensed health care providers,
4 crime laboratories and district attorneys in the State shall participate in the tracking system
5 on the schedule and in the manner required by department rules adopted pursuant to
6 subsection 6.

7 **4. Immunity.** A person or entity required by subsection 3 to participate in the tracking
8 system is immune from civil liability for actions taken as a participant that are required by
9 subsection 3 or by rules adopted pursuant to subsection 6.

10 **5. Report.** The department shall report to the joint standing committee of the
11 Legislature having jurisdiction over criminal justice and public safety matters and the
12 Governor by January 1, 2027, and annually thereafter, regarding the tracking system. The
13 report may include recommendations from the department for improved operation of the
14 tracking system and must include the following information, identified by the county from
15 which a forensic examination kit was entered into the tracking system:

16 A. The number of reported kits and the number of anonymous kits in the tracking
17 system and, of those kits, the number of kits on which analysis has been completed and
18 the number of kits on which analysis has not been completed;

19 B. The number of reported kits and the number of anonymous kits entered into the
20 tracking system during the prior calendar year and, of those kits, the number on which
21 analysis has been completed and the number on which analysis has not been completed;

22 C. The average and median lengths of time for forensic examination kits to be sent for
23 analysis after being entered into the tracking system and for analysis to be completed;
24 and

25 D. The number of reported forensic examination kits entered into the tracking system
26 for more than one year for which analysis has not been completed.

27 The State Police and any other law enforcement agency that performs its duties in more
28 than one county shall provide to the department tracking information for each county where
29 a forensic examination kit was entered into the tracking system.

30 **6. Rules.** The commissioner shall adopt rules to govern participation in and
31 implementation of the tracking system. The rules must include provisions for maintaining
32 confidentiality of tracking system information; provisions to ensure timely posting to the
33 tracking system; a process for approving tracking system users and access for approved
34 users; procedures for posting information and for updating information in the tracking
35 system; and requirements for documentation of persons who have posted, accessed and
36 updated information in the tracking system. Rules adopted pursuant to this subsection are
37 routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

38 **Sec. 3. 25 MRSA §3821,** as amended by PL 2023, c. 236, §1, is further amended to
39 read:

40 **§3821. Transportation and storage of forensic examination kits**

41 For the purposes of this section, "sexual assault" means any crime enumerated in Title
42 17-A, chapter 11 and "strangulation" has the same meaning as in Title 17-A, section 208,
43 subsection 1, paragraph C.

1 If an alleged victim of sexual assault or strangulation has a forensic examination and
2 has not reported the alleged offense to a law enforcement agency when the examination is
3 complete, the licensed hospital or licensed health care practitioner that completed the
4 forensic examination shall notify the nearest law enforcement agency. That law
5 enforcement agency shall transport the completed forensic examination kit, identified only
6 by a tracking number assigned by the kit manufacturer, to its evidence storage facility. ~~The~~
7 ~~law enforcement agency shall store the forensic examination kits involving sexual assault~~
8 ~~for 20 years and forensic examination kits involving only strangulation for 6 years. If~~
9 ~~during that storage period the alleged victim reports the offense to a law enforcement~~
10 ~~agency, the investigating agency shall take possession of the forensic examination kit. An~~
11 ~~alleged victim who has not reported the alleged offense to a law enforcement agency may~~
12 ~~request that a completed forensic examination kit be transported to the Maine State Police~~
13 ~~Crime Laboratory and be processed by signing a consent form indicating that the alleged~~
14 ~~victim wants the kit to be tested, and the results of the analysis must be kept anonymous.~~

15 If an alleged victim of sexual assault or strangulation has a forensic examination and
16 has reported the alleged offense to a law enforcement agency when the examination is
17 complete, or the alleged victim reports the alleged offense after the forensic examination
18 kit has been transported to the nearest law enforcement agency, the law enforcement agency
19 investigating the offense shall take possession of that kit.

20 A law enforcement agency shall store the forensic examination kits involving sexual
21 assault for 20 years and forensic examination kits involving only strangulation for 6 years,
22 regardless of whether the alleged offense relating to the kit is reported to a law enforcement
23 agency. Beginning January 1, 2027, completed forensic examination kits must be
24 transported to the Maine State Police Crime Laboratory and be processed.

25 In the case of a forensic examination performed under Title 24, section 2986,
26 subsection 5, the law enforcement agency must immediately notify the district attorney for
27 the district in which the hospital or health care practitioner is located that such a forensic
28 examination has been performed and a forensic examination kit has been completed under
29 Title 24, section 2986, subsection 5.

30 **Sec. 4. 25 MRSA §3822** is enacted to read:

31 **§3822. Identifiable completed forensic examination kits; mandatory processing**

32 Beginning January 1, 2027, and every 5 years thereafter, a law enforcement agency
33 shall transport to the Maine State Police Crime Laboratory completed forensic examination
34 kits that are being stored by that law enforcement agency and that identify an alleged
35 victim. Beginning with the kits most recently stored by the law enforcement agency, the
36 Maine State Police Crime Laboratory shall process those kits on a rolling basis. The
37 Department of Public Safety shall adopt rules to implement testing requirements under this
38 section. Rules adopted pursuant to this section are routine technical rules as defined in Title
39 5, chapter 375, subchapter 2-A.

40 **Sec. 5. Sexual assault forensic examination kit inventory.** By June 1, 2026,
41 all law enforcement agencies that receive, maintain, store or preserve forensic examination
42 kits shall complete an inventory of all kits in their possession and shall report their findings
43 to the Department of Public Safety. At a minimum, reported findings to the department
44 must include a breakdown by year by each agency of the number of:

- 1 1. Reported and anonymous kits received;
- 2 2. Reported kits that were never analyzed; and
- 3 3. Reported kits returned after analysis.

4 The department shall compile all agency findings and present a report of the inventory
5 by January 1, 2027 to the joint standing committee of the Legislature having jurisdiction
6 over criminal justice and public safety matters. At the same time, the department shall post
7 the report on its publicly accessible website.

8 **Emergency clause.** In view of the emergency cited in the preamble, this legislation
9 takes effect when approved.

10 SUMMARY

11 This bill directs the Department of Public Safety to establish, operate and maintain a
12 sexual assault forensic examination kit tracking system. The system must provide relevant
13 information for victims, both those who choose to report to a law enforcement agency and
14 those who choose not to report, and other approved users regarding the processing, custody,
15 analysis and destruction of evidence. The department is required to submit an annual report
16 beginning January 1, 2027 to the joint standing committee of the Legislature having
17 jurisdiction over criminal justice and public safety matters and the Governor concerning
18 information related to the status of sexual assault forensic examination kits reported in the
19 tracking system. The bill provides requirements for the tracking system and requires the
20 department to adopt routine technical rules, including rules regarding participation in the
21 tracking system, confidentiality and the operation of the tracking system.

22 The bill directs that, by June 1, 2026, a law enforcement agency that receives,
23 maintains, stores or preserves sexual assault forensic examination kits must complete an
24 inventory of all kits in its possession and report its findings to the Department of Public
25 Safety. The department must compile all agency reports and present findings of the
26 inventory by January 1, 2027 to the joint standing committee of the Legislature having
27 jurisdiction over criminal justice and public safety matters and at the same time post the
28 report on the department's publicly accessible website.

29 Public Law 2023, chapter 236 changed a provision in the Maine Revised Statutes, Title
30 25 to require law enforcement agencies to store sexual assault forensic examination kits for
31 20 years. For consistency with that provision, this bill amends a provision in Title 24 to
32 require law enforcement agencies to store sexual assault forensic examination kits for 20
33 years.

34 The bill allows an alleged victim who has not reported an alleged offense to a law
35 enforcement agency to request that a completed kit be transported to the Maine State Police
36 Crime Laboratory to be processed by signing a consent form, and the results of the analysis
37 must be kept anonymous.

38 The bill requires that, beginning January 1, 2027, and every 5 years thereafter, all
39 completed kits that identify an alleged victim and are being stored by a law enforcement
40 agency must be transported to the Maine State Police Crime Laboratory and be processed
41 on a rolling basis, beginning with kits most recently stored.

1 The bill also requires all forensic examination kits completed on or after January 1,
2 2027 to be transported to the Maine State Police Crime Laboratory and be processed.