

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 142

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H.P. 100

House of Representatives, January 19, 2017

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**An Act To Establish a Statewide Sexual Assault Forensic  
Examination Kit Tracking System**

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

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

ROBERT B. HUNT  
Clerk

Presented by Representative PICCHIOTTI of Fairfield.  
Cosponsored by Senator DAVIS of Piscataquis and  
Representatives: AUSTIN of Gray, HANLEY of Pittston, HAWKE of Boothbay Harbor,  
JOHANSEN of Monticello, NADEAU of Winslow, STROM of Pittsfield, WALLACE of  
Dexter, WARD of Dedham.

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

2 **Sec. 1. 25 MRSA §3822** is enacted to read:

3 **§3822. Sexual assault forensic examination kit tracking system**

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

6 A. "Crime laboratory" means the Maine State Police Crime Laboratory located in  
7 Augusta or a laboratory licensed to provide forensic services to law enforcement  
8 agencies for the purpose of analyzing forensic examination kits.

9 B. "Forensic examination kit" means a kit for evidence collection by a health care  
10 provider in alleged cases of sexual assault.

11 C. "Health care provider" means:

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

13 (2) A health care practitioner who is licensed by this State to provide or  
14 otherwise lawfully providing health care or a partnership or corporation made up  
15 of health care practitioners.

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

18 E. "Sexual assault" means a gross sexual assault as described in Title 17-A, section  
19 253, sexual abuse of a minor as described in Title 17-A, section 254 or unlawful  
20 sexual contact as described in Title 17-A, section 255-A.

21 F. "Tracking system" means the forensic examination kit tracking system established  
22 by the State Police pursuant to subsection 2.

23 **2. Forensic examination kit tracking system.** The State Police shall establish,  
24 operate and maintain a forensic examination kit tracking system that uses electronic  
25 technologies and allows continuous access to approved users of the tracking system.

26 A. The State Police shall establish, operate and maintain the tracking system through  
27 the use of State Police personnel and resources and, to accomplish those duties, may  
28 contract with public or private entities, including, but not limited to, software and  
29 technology providers.

30 B. The tracking system must track the location and status of forensic examination  
31 kits throughout the criminal justice process, including the collection of a completed  
32 test kit, receipt of the forensic examination kit by a law enforcement agency and  
33 receipt and analysis of forensic evidence at a crime laboratory.

34 C. The tracking system must allow updating and tracking of a forensic examination  
35 kit as follows:

36 (1) A health care provider, law enforcement agency, prosecutor and any other  
37 entity in the possession of a forensic examination kit must have access to the

1 tracking system for the purposes of entering, updating and tracking the status and  
2 location of a forensic examination kit; and

3 (2) An alleged victim of sexual assault from whom forensic evidence has been  
4 obtained through the use of a forensic examination kit must have access on an  
5 anonymous and secure basis for the purposes of receiving updates regarding the  
6 forensic examination kit and tracking the status of the forensic examination kit.

7 **3. Participation required.** Law enforcement agencies, health care providers, crime  
8 laboratories and prosecuting attorneys in the State shall participate in the tracking system  
9 on the schedule and in the manner required by the State Police pursuant to rules adopted  
10 pursuant to subsection 6.

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

14 **5. Report.** The State Police shall report to the joint standing committee of the  
15 Legislature having jurisdiction over criminal justice and public safety matters and the  
16 Governor by July 1, 2018 and every 6 months thereafter regarding the tracking system.  
17 The report may include recommendations from the State Police for improved operation of  
18 the tracking system and must include the following information, identified by the county  
19 from which the forensic examination kit was entered into the tracking system:

20 A. The number of forensic examination kits in the tracking system, and of those  
21 forensic examination kits the number on which analysis has been completed and the  
22 number on which analysis has not been completed;

23 B. The number of forensic examination kits entered into the system during the prior  
24 6 months, and of those forensic examination kits the number on which analysis has  
25 been completed and the number on which analysis has not been completed;

26 C. The average and median length of time for forensic examination kits to be sent for  
27 analysis after being entered into the system and for analysis to be completed; and

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

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

## 38 SUMMARY

39 This bill establishes within the State Police the responsibility to establish, operate and  
40 maintain a sexual assault forensic examination kit tracking system. The bill sets forth the

1 requirements for the tracking system and requires the State Police to adopt routine  
2 technical rules, including rules regarding participation in the tracking system,  
3 confidentiality and the operation of the tracking system. The bill provides civil immunity  
4 for participants in the tracking system for actions required by law or rule.