

MAINE STATE LEGISLATURE

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L.D. 2129

Date: 4/1/24 Majority

(Filing No. H- 904)

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CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1353, L.D. 2129, "An Act to Establish a Statewide Sexual Assault Forensic Examination Kit Tracking System and Conduct an Inventory of Existing Forensic Examination Kits in the Possession of Law Enforcement"

Amend the bill in section 1 in subsection 3 by adding at the end a new blocked paragraph to read:

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

Amend the bill in section 2 in §2915-A in subsection 1 in paragraph A in the 2nd line (page 2, line 4 in L.D.) by striking out the following: "a laboratory licensed to provide" and inserting the following: 'another laboratory that provides'

Amend the bill in section 2 in §2915-A in subsection 1 in paragraph C in the first line (page 2, line 7 in L.D.) by inserting after the following: "examination kit" " the following: 'or "kit" '

Amend the bill in section 2 in §2915-A by striking out all of subsection 2 (page 2, lines 20 to 40 and page 3, lines 1 to 4 in L.D.) and inserting the following:

'2. Forensic examination kit tracking system. The department shall establish, operate and maintain a tracking system for all completed forensic examination kits, regardless of whether the alleged offense relating to the kit was reported to a law enforcement agency, that is continuously accessible to approved users.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) A licensed health care provider, law enforcement agency, prosecuting attorney or any other entity in possession of a kit must have access to the tracking system for the purposes of entering, updating and tracking the status and location of the kit.'

Amend the bill in section 2 in §2915-A by striking out all of subsection 5 (page 3, lines 12 to 34 in L.D.) and inserting the following:

'5. Report. The department shall report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and the Governor by January 1, 2026, and annually thereafter, regarding the tracking system. The report may include recommendations from the department for improved operation of the

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tracking system and must include the following information, identified by the county from which a forensic examination kit was entered into the tracking system:

3 A. The number of reported kits and the number of anonymous kits in the tracking
4 system and, of those kits, the number on which analysis has been completed and the
5 number on which analysis has not been completed;

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

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

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

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

17 Amend the bill by striking out all of section 3 and inserting the following:

18 '**Sec. 3. 25 MRSA §3821, 2nd ¶**, as amended by PL 2023, c. 236, §1, is further
19 amended to read:

20 If an alleged victim of sexual assault or strangulation has a forensic examination and
21 has not reported the alleged offense to a law enforcement agency when the examination is
22 complete, the licensed hospital or licensed health care practitioner that completed the
23 forensic examination shall notify the nearest law enforcement agency. That law
24 enforcement agency shall transport the completed forensic examination kit, identified only
25 by a tracking number assigned by the kit manufacturer, to its evidence storage facility. If
26 an alleged victim of sexual assault or strangulation has a forensic examination and has
27 reported the alleged offense to a law enforcement agency when the examination is
28 complete, or the alleged victim reports the alleged offense after the forensic examination
29 kit has been transported to the nearest law enforcement agency, the law enforcement agency
30 investigating the offense shall take possession of that kit. The A law enforcement agency
31 shall store the forensic examination kits involving sexual assault for 20 years and forensic
32 examination kits involving only strangulation for 6 years, regardless of whether the alleged
33 offense relating to the kit is reported to a law enforcement agency. If during that storage
34 period the alleged victim reports the offense to a law enforcement agency, the investigating
35 agency shall take possession of the forensic examination kit.

36 **Sec. 4. Sexual assault forensic examination kit inventory.** By June 1, 2025,
37 all law enforcement agencies that receive, maintain, store or preserve forensic examination
38 kits shall complete an inventory of all kits in their possession and shall report their findings
39 to the Department of Public Safety. At a minimum, reported findings to the department
40 must include a breakdown by year by each agency of the number of:

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

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The department shall compile all agency findings and present a report of the inventory by January 1, 2026 to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters. At the same time, the department shall post the report on its publicly accessible website.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

**PUBLIC SAFETY, DEPARTMENT OF
State Police 0291**

Initiative: Provides funding for one Forensic Chemist II position, one Forensic Chemist I position, one DNA Forensic Analyst position and related costs to establish, operate and maintain a sexual assault forensic examination kit tracking system, perform an inventory of all kits and develop an annual report on the tracking system.

GENERAL FUND	2023-24	2024-25
POSITIONS - LEGISLATIVE COUNT	0.000	3.000
Personal Services	\$0	\$217,959
All Other	\$0	\$9,263
GENERAL FUND TOTAL	\$0	\$227,222
HIGHWAY FUND	2023-24	2024-25
Personal Services	\$0	\$117,363
All Other	\$0	\$4,987
HIGHWAY FUND TOTAL	\$0	\$122,350

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment, which is the majority report of the committee, does the following.

1. It clarifies that all completed sexual assault forensic examination kits must be stored by a law enforcement agency for 20 years and all completed strangulation forensic examination kits must be stored for 6 years, regardless of whether or not the alleged victim reported an alleged offense to a law enforcement agency.

2. It amends the information required to be collected by the sexual assault forensic examination kit tracking system established by the Department of Public Safety and the requirements for law enforcement agencies, licensed health care providers and crime laboratories to ensure that the required information is recorded in the tracking system.

3. It changes the date that the department must submit its annual report regarding the tracking system to January 1st and the date of the first annual report to January 1, 2026.

4. It clarifies that the department's annual report must include data on both reported and anonymous kits entered into the tracking system.

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5. It changes the date that the department must submit the kit inventory to January 1, 2026.

6. It creates appropriations and allocations for 3 new positions within the Department of Public Safety to administer the kit tracking system and assist with kit testing.

FISCAL NOTE REQUIRED

(See attached)



131st MAINE LEGISLATURE

LD 2129

LR 2786(02)

An Act to Establish a Statewide Sexual Assault Forensic Examination Kit Tracking System and Conduct an Inventory of Existing Forensic Examination Kits in the Possession of Law Enforcement

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-984)
Committee: Criminal Justice and Public Safety
Fiscal Note Required: Yes

Fiscal Note

Potential State Mandate - Unfunded

	FY 2023-24	FY 2024-25	Projections FY 2025-26	Projections FY 2026-27
Net Cost (Savings)				
General Fund	\$0	\$227,222	\$235,030	\$243,580
Highway Fund	\$0	\$122,350	\$126,554	\$131,158
Appropriations/Allocations				
General Fund	\$0	\$227,222	\$235,030	\$243,580
Highway Fund	\$0	\$122,350	\$126,554	\$131,158

State Mandates

Required Activity

Requires law enforcement agencies to provide the Department of Public Safety tracking information for each municipality/county where a forensic examination kit was entered into the system and complete an inventory of all kits in its possession.

Unit Affected
Municipality
County

Local Cost
Moderate
statewide

The required local activities in this bill may represent a state mandate pursuant to the Constitution of Maine. If the bill does require a local unit of government to expand or modify its activities so as to necessitate additional expenditures from local revenue, the state mandate provisions of the Constitution of Maine require either: (1) General Fund appropriations be provided to fund at least 90% of any additional necessitated local costs of the mandate; or (2) a Mandate Preamble be added to the bill and two-thirds of the members of each House vote to exempt the mandate from the funding requirement. If the bill does represent a state mandate and neither one of these actions occurs, the local units of government will not be required to implement the mandated activities.

Fiscal Detail and Notes

This bill includes a General Fund appropriation of \$227,222 and a Highway Fund allocation of \$122,350 in fiscal year 2024-25 to the Department of Public Safety to establish, operate and maintain a sexual assault forensic examination kit tracking system, perform an inventory of all kits and develop an annual report on the tracking system.