

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



131st MAINE LEGISLATURE

SECOND REGULAR SESSION-2024

Legislative Document

No. 2129

H.P. 1353

House of Representatives, January 3, 2024

**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**

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

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 GEIGER of Rockland.
Cosponsored by Senator BEEBE-CENTER of Knox and
Representatives: ANKELES of Brunswick, CRAFTS of Newcastle, DOUDERA of Camden,
GATTINE of Westbrook, MORIARTY of Cumberland, OSHER of Orono, STOVER of
Boothbay, Senator: VITELLI of Sagadahoc.

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,** this legislation requires the establishment of a statewide sexual assault
4 forensic examination kit tracking system and an inventory of all sexual assault forensic
5 examination kits in the possession of law enforcement agencies; and

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

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

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

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

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

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

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

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

41 **§2915-A. Sexual assault forensic examination kit tracking system**

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

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

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

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

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

12 E. "Licensed health care provider" means:

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

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

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

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

20 **2. Forensic examination kit tracking system.** The department shall establish, operate
21 and maintain a forensic examination kit tracking system through the use of department
22 personnel and resources and, to accomplish those duties, may contract with public or
23 private entities, including, but not limited to, software and technology providers.

24 A. The tracking system must provide continuous access to the tracking system by
25 approved users.

26 B. For each forensic examination kit, the tracking system must track:

27 (1) The location and status of the kit from the initial collection at a licensed health
28 care provider;

29 (2) The inventory and storage of the kit by a law enforcement agency or crime
30 laboratory;

31 (3) The date when a law enforcement agency notifies a district attorney that the kit
32 is completed pursuant to section 3821;

33 (4) The status of analysis of the kit at a crime laboratory; and

34 (5) The storage or destruction of the kit after completion of analysis.

35 C. The tracking system must provide for 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 forensic examination kit must have access to the tracking system
39 on an anonymous and secure basis for the purposes of receiving updates regarding
40 the forensic examination kit and tracking the status of the forensic examination kit.

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

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

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

12 **5. Report.** The department shall report to the joint standing committee of the
13 Legislature having jurisdiction over criminal justice and public safety matters and the
14 Governor by June 1, 2025, and annually thereafter, regarding the tracking system. The
15 report may include recommendations from the department for improved operation of the
16 tracking system and must include the following information, identified by the county from
17 which a forensic examination kit was entered into the tracking system:

18 A. The number of forensic examination kits in the tracking system with respect to
19 which the alleged victim has reported the alleged offense to a law enforcement agency
20 and with respect to which the alleged victim has not reported the alleged offense to a
21 law enforcement agency and, for each of those categories, the number of kits on which
22 analysis has been completed and the number on which analysis has not been completed;

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

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

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

31 The State Police, and any other law enforcement agency that performs its duties in more
32 than one county, shall provide to the department tracking information for each county
33 where a forensic examination kit was entered into the tracking system, and the department
34 shall use that information in compiling its report.

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

43 **Sec. 3. Sexual assault forensic examination kit inventory.** By June 1, 2025, a
44 law enforcement agency that receives, maintains, stores or preserves forensic examination

1 kits used to perform forensic examinations for alleged victims of sexual assault shall
2 complete an inventory of all kits in its possession and shall report its findings to the
3 Department of Public Safety. Reported findings to the department must include a
4 breakdown by year by each agency of the number of:

5 1. Kits received with respect to which the alleged victim has reported the alleged
6 offense to a law enforcement agency and with respect to which the alleged victim has not
7 reported the alleged offense to a law enforcement agency;

8 2. Reported kits that were never analyzed; and

9 3. Reported kits returned after analysis.

10 The department shall compile all agency findings and present a report of the inventory
11 by September 1, 2025 to the joint standing committee of the Legislature having jurisdiction
12 over criminal justice and public safety matters. At the same time, the department shall post
13 the report on its website in a manner easily accessible to the public.

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

16 SUMMARY

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

28 The bill directs that, by June 1, 2025, a law enforcement agency that receives,
29 maintains, stores or preserves sexual assault forensic examination kits must complete an
30 inventory of all kits in its possession and report its findings to the Department of Public
31 Safety. The department must compile all agency reports and present findings of the
32 inventory by September 1, 2025 to the joint standing committee of the Legislature having
33 jurisdiction over criminal justice and public safety matters and at the same time post the
34 report on the department's public website in an easily accessible location.

35 Public Law 2023, chapter 236 changed a provision in the Maine Revised Statutes, Title
36 25 to require law enforcement agencies to store sexual assault forensic examination kits for
37 20 years. For consistency with that provision, this bill amends a provision in Title 24 to
38 require law enforcement agencies to store sexual assault forensic examination kits for 20
39 years.