

HOUSE BILL No. 1234

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-11-2; IC 10-19-13; IC 16-21-8.

Synopsis: Rape kits. Requires the superintendent of the state police department (superintendent) to adopt certain guidelines concerning medical forensic examination kits for victims of a sex crime (kits) and to obtain data from law enforcement agencies concerning kits in the agencies' possession. Requires the superintendent to provide certain information to the interim study committee on corrections and criminal code concerning kits. Requires a forensic medical services provider to notify a law enforcement agency regarding the completion of a kit not later than 24 hours after the kit is completed. Requires the department of homeland security to develop practices and guidelines designed to assist crime labs and law enforcement agencies with the elimination of untested kit backlogs. Requires that a notification be provided to a victim who has registered for notifications through the web based claims reimbursement and sexual assault examination kit tracking system not more than 30 days after a change in status to the kit. Makes conforming changes.

Effective: July 1, 2023.

Klinker

January 10, 2023, read first time and referred to Committee on Veterans Affairs and Public Safety.



First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1234

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 10-11-2-33, AS ADDED BY P.L.161-2014,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 33. **(a) The following definitions apply**
4 **throughout this section:**
5 **(1) "Kit" means the standard medical forensic examination**
6 **kit for victims of a sex crime, as developed by the state police**
7 **department under subsection (b).**
8 **(2) "Law enforcement agency" has the meaning set forth in**
9 **IC 35-47-15-2.**
10 **(3) "Provider" has the meaning set forth in IC 16-21-8-0.2.**
11 **(4) "Sex crime" has the meaning set forth in IC 16-21-8-1(b).**
12 ~~(a)~~ **(b) The superintendent shall adopt guidelines to accomplish the**
13 **following:**
14 **(1) Establish a standard medical forensic examination kit for**
15 **victims of a sex crime.**
16 **(2) Urge law enforcement agencies to send kits for testing not**
17 **later than twenty-one (21) days after receiving the provider**



- 1 notification described in IC 16-21-8-9(a).
- 2 (3) Urge crime labs to process kits not later than thirty (30)
- 3 days after receipt from a law enforcement agency.
- 4 (4) Urge crime labs to:
- 5 (A) test all untested kits in their possession; and
- 6 (B) eliminate any backlog associated with untested kits in
- 7 law enforcement agency possession;
- 8 not later than July 1, 2024.
- 9 (5) Create and distribute a reporting form in print, electronic
- 10 format, or both, for law enforcement agencies to provide the
- 11 superintendent with the following information:
- 12 (A) The total number of kits collected by the law
- 13 enforcement agency.
- 14 (B) The total number of kits:
- 15 (i) in the law enforcement agency's possession; and
- 16 (ii) awaiting testing by a crime lab.
- 17 (C) The average number of days between a law
- 18 enforcement agency's submission of a kit to a crime lab for
- 19 testing and the production of the kit's test results.
- 20 (c) The information described in subsection (b)(5) shall be
- 21 provided to the superintendent:
- 22 (1) in the manner prescribed by the guidelines adopted under
- 23 this section; and
- 24 (2) not later than July 1 of each year.
- 25 ~~(b) (d)~~ The superintendent shall distribute ~~the standard medical~~
- 26 ~~forensic examination~~ kits to hospitals and other health care providers
- 27 who may provide forensic medical examinations to the victims of a sex
- 28 crime. ~~The superintendent may adopt guidelines to carry out this~~
- 29 ~~subsection.~~
- 30 SECTION 2. IC 10-11-2-35 IS ADDED TO THE INDIANA CODE
- 31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 32 1, 2023]: **Sec. 35. (a) The following definitions apply throughout**
- 33 **this section:**
- 34 (1) "CODIS" means the combined DNA index system (as
- 35 defined in IC 10-13-6-1).
- 36 (2) "Committee" means the interim study committee on
- 37 corrections and criminal code established by IC 2-5-1.3-4.
- 38 (3) "Kit" means the standard medical forensic examination
- 39 kit for victims of a sex crime, as developed by the state police
- 40 department under section 33(b) of this chapter.
- 41 (4) "Superintendent" has the meaning set forth in
- 42 IC 10-11-1-4.



1 **(b) The superintendent shall report annually to the committee**
 2 **on the following matters:**

3 **(1) The entering of tested kit results into CODIS.**

4 **(2) The:**

5 **(A) number of kits awaiting testing statewide; and**

6 **(B) reasons for delays in kit testing.**

7 **(c) The report shall be submitted to the committee in an**
 8 **electronic format under IC 5-14-6.**

9 **(d) The report may include additional information that the**
 10 **superintendent believes will be helpful to the committee.**

11 SECTION 3. IC 10-19-13 IS ADDED TO THE INDIANA CODE
 12 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2023]:

14 **Chapter 13. Forensic Medical Examination Kit Testing**

15 **Sec. 1. (a) The following definitions apply throughout this**
 16 **section:**

17 **(1) "Kit" means the standard medical forensic examination**
 18 **kit for victims of a sex crime, as developed by the state police**
 19 **department under IC 10-11-2-33(b).**

20 **(2) "Law enforcement agency" has the meaning set forth in**
 21 **IC 35-47-15-2.**

22 **(3) "Provider" has the meaning set forth in IC 16-21-8-0.2.**

23 **(b) The department shall develop best practice policies and**
 24 **procedures for crime labs and law enforcement agencies**
 25 **concerning the following:**

26 **(1) The initial collection of sex crime evidence by providers.**

27 **(2) Provider notification to a law enforcement agency upon**
 28 **completion of a kit.**

29 **(3) The time frame for kit testing by a crime lab.**

30 **(4) The transfer of kits:**

31 **(A) from a provider to a law enforcement agency;**

32 **(B) from a law enforcement agency to a crime lab; and**

33 **(C) from a crime lab to a law enforcement agency;**

34 **and the maintenance of kits during transfer between the**
 35 **entities described in clauses (A) through (C).**

36 **(5) Victim petitions requesting the testing of a kit.**

37 **(6) Victim notification of the following:**

38 **(A) The planned destruction of a kit.**

39 **(B) The storage, transportation, or transfer of a kit.**

40 **(C) The testing status of a kit.**

41 **(7) The creation, distribution, and storage of all records and**
 42 **reports pertaining to the following:**



1 (A) Kit chain of custody.

2 (B) Kit test results.

3 (C) Audits of kit inventory.

4 (8) The maintenance and storage of tested and untested kits.

5 (c) The department shall disseminate information to law
6 enforcement agencies regarding the existence, location, and
7 capacity of:

8 (1) county facilities;

9 (2) state facilities; and

10 (3) private vendors;

11 capable of testing kits.

12 SECTION 4. IC 16-21-8-9, AS ADDED BY P.L.41-2007,
13 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2023]: Sec. 9. (a) Prior to the discharge of a victim from the
15 hospital, a provider shall:

16 (1) require the victim to sign a form that notifies the victim of his
17 or her rights under this chapter;

18 (2) provide a copy of the signed form to the victim; and

19 (3) inform law enforcement that the sample is available **not later**
20 **than twenty-four (24) hours after the completion of a forensic**
21 **medical examination.**

22 (b) The director of the Indiana criminal justice institute may delay
23 the implementation of this section until the earlier of the following:

24 (1) A date set by the director.

25 (2) The date funding becomes available by a grant through the
26 criminal justice institute or by an appropriation from the general
27 assembly.

28 If the director of the criminal justice institute delays implementation of
29 this section, the director shall notify the prosecuting attorney of each
30 county of the director's action and when funding **become becomes**
31 available to implement this section.

32 SECTION 5. IC 16-21-8-10, AS AMENDED BY P.L.36-2019,
33 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2023]: Sec. 10. (a) Law enforcement shall:

35 (1) obtain the sample within forty-eight (48) hours after receiving
36 a provider's notification; and

37 (2) transport the sample to secured storage.

38 (b) Law enforcement shall keep the sample in secured storage until
39 the earlier of the following:

40 (1) At least one (1) year after the date the sample is placed in
41 secured storage.

42 (2) The victim reports the sex crime to law enforcement and the



- 1 sample is transported to a crime lab.
- 2 (c) Notification of sample destruction may be provided by the
3 division through the web based claims reimbursement and sexual
4 assault examination kit tracking system. Law enforcement agencies and
5 prosecuting attorneys shall cooperate with the division by providing
6 storage updates to the division via the web based claims reimbursement
7 and sexual assault examination kit tracking system.
- 8 (d) A victim may register for notification through the web based
9 claims reimbursement and sexual assault examination kit tracking
10 system. **If a victim has registered for notifications under this**
11 **subsection, a notification shall be sent to the victim each time there**
12 **is a change in status to the kit not more than thirty (30) days after**
13 **the change in status.**
- 14 (e) Each county shall develop and implement a plan for the secured
15 storage and destruction of samples.
- 16 (f) The director of the Indiana criminal justice institute may delay
17 the implementation of this section until the earlier of the following:
- 18 (1) A date set by the director.
- 19 (2) The date funding becomes available by a grant through the
20 criminal justice institute or by an appropriation from the general
21 assembly.
- 22 If the director of the criminal justice institute delays implementation of
23 this section, the director shall notify the prosecuting attorney of each
24 county of the director's action and when funding becomes available to
25 implement this section.
- 26 (g) The failure to comply with:
- 27 (1) this chapter;
- 28 (2) a plan adopted by a county; or
- 29 (3) a protocol adopted by a sexual assault response team;
- 30 does not, standing alone, affect the admissibility of a sample as
31 evidence in a criminal or civil proceeding.

