

Committee on Criminal Justice

CS/CS/CS/SB 764 — Retention of Sexual Offense Evidence

by Fiscal Policy Committee; Appropriations Committee on Criminal and Civil Justice; Criminal Justice Committee; and Senator Stewart

The bill amends s. 943.326(3), F.S., to specify parameters for the storage of sexual assault evidence kits (SAKs). Kits that are collected from an alleged victim of a sexual offense who does not report the sexual offense to law enforcement during the forensic physical examination and does not request to have the evidence tested, must be retained for a minimum of 50 years.

The bill requires that:

- The medical facility or certified rape crisis center that collected the kit must transfer the SAK to the Florida Department of Law Enforcement (FDLE) within 30 days after the collection date; and
- The FDLE must store the evidence anonymously, in a secure environmentally safe manner, and with a documented chain of custody.

If at any time following the initial retention of a SAK an alleged victim reports the crime to law enforcement or requests testing of the evidence, and if the applicable time limitation under s. 775.15, F.S., has not expired and a criminal prosecution may still be commenced, the previously collected SAK evidence will be retained in the same manner as if the victim initially reported the offense or requested testing at the time of collection. However, if a criminal case may not be commenced because the applicable time limitation under s. 775.15, F.S., has expired, the kit must be maintained in a secure, environmentally safe manner until the department has approved its destruction.

The bill provides that a SAK, or other DNA evidence if a kit is not collected, that is collected from an alleged victim who reports a sexual offense to law enforcement or who makes a request, or on whose behalf a request is made, for testing, must be retained in a secure, environmentally safe manner until the prosecuting agency has approved its destruction.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect October 1, 2024.

Vote: Senate 40-0; House 112-1