

HOUSE BILL No. 1040

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-11; IC 10-19-14; IC 16-21-8.

Synopsis: Medical forensic examination kits. Repeals and relocates the statute requiring the superintendent of the state police department (superintendent) to adopt guidelines to establish a standard medical forensic examination kit for victims of sex crimes (kits). Requires the superintendent to adopt guidelines on the processing and testing of kits. Requires law enforcement agencies to submit data to the superintendent concerning kits in the agencies' possession. Requires the superintendent to provide information concerning the processing and testing of kits to the interim study committee on corrections and criminal code. Requires the department of homeland security to develop best practice policies and procedures for crime labs and law enforcement agencies concerning medical forensic evidence of sex crimes. 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 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, 2024.

Klinker

January 8, 2024, read first time and referred to Committee on Veterans Affairs and Public Safety.



Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1040

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 IS REPEALED [EFFECTIVE JULY 1,
2 2024]. ~~Sec. 33: (a) The superintendent shall adopt guidelines to~~
3 ~~establish a standard medical forensic examination kit for victims of a~~
4 ~~sex crime:~~

5 ~~(b) The superintendent shall distribute the standard medical forensic~~
6 ~~examination kits to hospitals and other health care providers who may~~
7 ~~provide forensic medical examinations to the victims of a sex crime:~~
8 ~~The superintendent may adopt guidelines to carry out this subsection.~~

9 SECTION 2. IC 10-11-13 IS ADDED TO THE INDIANA CODE
10 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2024]:

12 **Chapter 13. Standard Medical Forensic Examination Kits for**
13 **Victims of Sex Crimes**

14 **Sec. 1. As used in this chapter, "CODIS" means the combined**
15 **DNA index system (as defined in IC 10-13-6-1).**

16 **Sec. 2. As used in this chapter, "committee" means the interim**
17 **study committee on corrections and criminal code established by**



- 1 **IC 2-5-1.3-4.**
2 **Sec. 3.** As used in this chapter, "kit" means the standard
3 **medical forensic examination kit for a victim of a sex crime**
4 **developed by the state police department in accordance with the**
5 **guidelines adopted under IC 10-11-2-33 (before its repeal) and**
6 **section 7 of this chapter.**
7 **Sec. 4.** As used in this chapter, "law enforcement agency" has
8 **the meaning set forth in IC 35-47-15-2.**
9 **Sec. 5.** As used in this chapter, "provider" has the meaning set
10 **forth in IC 16-21-8-0.2.**
11 **Sec. 6.** As used in this chapter, "sex crime" refers to a crime
12 **listed in IC 16-21-8-1(b).**
13 **Sec. 7. (a)** The superintendent shall adopt guidelines to establish
14 **a standard medical forensic examination kit for a victim of a sex**
15 **crime.**
16 **(b)** The superintendent shall distribute kits to hospitals and
17 **other health care providers that provide forensic medical**
18 **examinations to the victims of sex crimes.**
19 **Sec. 8.** The superintendent shall adopt guidelines that do the
20 **following:**
21 **(1)** Urge law enforcement agencies to send kits for testing not
22 **later than twenty-one (21) days after receiving the provider**
23 **notification described in IC 16-21-8-9(a).**
24 **(2)** Urge crime labs to process kits not later than thirty (30)
25 **days after receipt from a law enforcement agency.**
26 **(3)** Urge crime labs to:
27 **(A)** test all untested kits in their possession; and
28 **(B)** eliminate any backlog associated with untested kits in
29 **law enforcement agency possession;**
30 **not later than July 1, 2025.**
31 **Sec. 9.** The superintendent shall create and distribute a
32 **reporting form in print, electronic format, or both, for law**
33 **enforcement agencies to annually provide the superintendent with**
34 **the following information:**
35 **(1)** The total number of kits collected by the law enforcement
36 **agency.**
37 **(2)** The total number of kits:
38 **(A)** in the law enforcement agency's possession; and
39 **(B)** awaiting testing by a crime lab.
40 **(3)** The average number of days between a law enforcement
41 **agency's submission of a kit to a crime lab for testing and the**
42 **production of the kit's test results.**



1 **Sec. 10. A law enforcement agency shall submit the form**
 2 **containing the information described in section 9 of this chapter to**
 3 **the superintendent not later than July 1 of each year.**

4 **Sec. 11. Before September 1 of each year, the superintendent**
 5 **shall annually submit to the committee in an electronic format**
 6 **under IC 5-14-6 a report containing:**

7 **(1) information on the entering of tested kit results into**
 8 **CODIS;**

9 **(2) the:**

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

11 **(B) reasons for delays in kit testing; and**

12 **(3) any additional information that the superintendent**
 13 **believes is helpful to the committee.**

14 **SECTION 3. IC 10-19-14 IS ADDED TO THE INDIANA CODE**
 15 **AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE**
 16 **JULY 1, 2024]:**

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

18 **Sec. 1. As used in this chapter, "kit" means the standard**
 19 **medical forensic examination kit for victims of a sex crime, as**
 20 **developed by the state police department under IC 10-11-2-33**
 21 **(before its repeal) and IC 10-11-13-7.**

22 **Sec. 2. As used in this chapter, "law enforcement agency" has**
 23 **the meaning set forth in IC 35-47-15-2.**

24 **Sec. 3. As used in this chapter, "provider" has the meaning set**
 25 **forth in IC 16-21-8-0.2.**

26 **Sec. 4. The department shall develop best practice policies and**
 27 **procedures for crime labs and law enforcement agencies**
 28 **concerning the following:**

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

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

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

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

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

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

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

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

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

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

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

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



- 1 (C) The testing status of a kit.
- 2 (7) The creation, distribution, and storage of all records and
- 3 reports pertaining to the following:
- 4 (A) Kit chain of custody.
- 5 (B) Kit test results.
- 6 (C) Audits of kit inventory.
- 7 (8) The maintenance and storage of tested and untested kits.

8 **Sec. 5. The department shall disseminate information to law**
 9 **enforcement agencies regarding the existence, location, and**
 10 **capacity of:**

- 11 (1) county facilities;
- 12 (2) state facilities; and
- 13 (3) private vendors;

14 **capable of testing kits.**

15 SECTION 4. IC 16-21-8-0.2, AS AMENDED BY P.L.36-2019,
 16 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2024]: Sec. 0.2. The following definitions apply throughout
 18 this chapter:

- 19 (1) "Division" refers to the victim services division of the Indiana
- 20 criminal justice institute established by IC 5-2-6-8(a).
- 21 (2) "Evidence" means the results collected from a forensic
- 22 medical examination of a victim by a provider.
- 23 (3) "Personal information" has the meaning set forth in
- 24 IC 9-14-6-6.
- 25 (4) "Provider" means a hospital or licensed medical services
- 26 provider that provides forensic medical exams and additional
- 27 forensic services to a victim.
- 28 (5) "Sample" means the result collected from a forensic medical
- 29 examination of the victim by a provider, when the victim has not
- 30 yet reported the sex crime to law enforcement.
- 31 (6) "Secured storage" means a method of storing a sample that
- 32 will adequately safeguard the integrity and viability of the sample.
- 33 (7) "Sexual assault examination kit" means the standard medical
- 34 forensic examination kit for victims of sexual assault developed
- 35 by the state police department under IC 10-11-2-33 **(before its**
- 36 **repeal) and IC 10-11-13-7.**
- 37 (8) "Sexual assault nurse examiner" means a registered nurse
- 38 who:
- 39 (A) has received training to provide comprehensive care to
- 40 sexual assault survivors; and
- 41 (B) can:
- 42 (i) conduct a forensic medical examination; and



1 (ii) collect evidence from a sexual assault victim.

2 SECTION 5. IC 16-21-8-9, AS ADDED BY P.L.41-2007,
3 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2024]: Sec. 9. (a) Prior to the discharge of a victim from the
5 hospital, a provider shall:

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

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

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

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

14 (1) A date set by the director.

15 (2) The date funding becomes available by a grant through the
16 criminal justice institute or by an appropriation from the general
17 assembly.

18 If the director of the criminal justice institute delays implementation of
19 this section, the director shall notify the prosecuting attorney of each
20 county of the director's action and when funding ~~become~~ **becomes**
21 available to implement this section.

22 SECTION 6. IC 16-21-8-10, AS AMENDED BY P.L.36-2019,
23 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2024]: Sec. 10. (a) Law enforcement shall:

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

27 (2) transport the sample to secured storage.

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

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

32 (2) The victim reports the sex crime to law enforcement and the
33 sample is transported to a crime lab.

34 (c) Notification of sample destruction may be provided by the
35 division through the web based claims reimbursement and sexual
36 assault examination kit tracking system. Law enforcement agencies and
37 prosecuting attorneys shall cooperate with the division by providing
38 storage updates to the division via the web based claims reimbursement
39 and sexual assault examination kit tracking system.

40 (d) A victim may register for notification through the web based
41 claims reimbursement and sexual assault examination kit tracking
42 system. **If a victim has registered for notifications under this**



1 **subsection, a notification must be sent to the victim each time there**
 2 **is a change in status to the kit not more than thirty (30) days after**
 3 **the change in status.**

4 (e) Each county shall develop and implement a plan for the secured
 5 storage and destruction of samples.

6 (f) The director of the Indiana criminal justice institute may delay
 7 the implementation of this section until the earlier of the following:

8 (1) A date set by the director.

9 (2) The date funding becomes available by a grant through the
 10 criminal justice institute or by an appropriation from the general
 11 assembly.

12 If the director of the criminal justice institute delays implementation of
 13 this section, the director shall notify the prosecuting attorney of each
 14 county of the director's action and when funding becomes available to
 15 implement this section.

16 (g) The failure to comply with:

17 (1) this chapter;

18 (2) a plan adopted by a county; or

19 (3) a protocol adopted by a sexual assault response team;

20 does not, standing alone, affect the admissibility of a sample as
 21 evidence in a criminal or civil proceeding.

