

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

House Bill No. 485

BY: Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

24 SECTION 1. (1) The following words shall have the meanings
25 described in this act:

26 (a) "Law enforcement" means the law enforcement agency
27 with the primary responsibility for investigating an alleged
28 sexual assault.

29 (b) "Medical facility" means any doctor's office,
30 hospital, medical clinic or nonprofit facility equipped to perform
31 forensic medical examinations and prepare sexual assault evidence
32 kits.



33 (c) "Reported kit" means a sexual assault evidence kit
34 in which the survivor has consented to participate in the criminal
35 justice process through reporting the crime to law enforcement.

36 (d) "Sexual assault" means rape, sexual assault, sexual
37 battery or any other nonconsensual forcible sexual intercourse.

38 (e) "Sexual assault evidence collection kit" means a
39 sexual assault or rape kit developed by the Mississippi chapter of
40 the International Association of Forensic Nurses (IAFN) and
41 approved by the Sexual Assault Evidence Accountability Task Force.

42 (f) "Sexual Assault Nurse Examiner" means a registered
43 nurse or advanced practice nurse, with a minimum of one (1) year
44 of experience in areas of practice that require advanced physical
45 assessment skills, such as emergency, critical care and maternal
46 child health, who has completed sexual assault nurse examiner
47 (SANE) training consistent with IAFN SANE Education Guidelines
48 that consists of both classroom and clinical components.

49 (g) "Unreported kit" means a sexual assault evidence
50 kit in which the survivor consented to the evidence collection,
51 but has not consented to participate in the criminal justice
52 process by reporting the crime to law enforcement - meaning they
53 are not seeking to have their kit tested.

54 (2) Sexual assault evidence collection kits shall be
55 processed in the following manner:

56 (a) Any medical facility that conducts a medical
57 forensic examination and/or prepares a sexual assault evidence



58 collection kit shall immediately, but no longer than four (4)
59 hours after the finalization of examination, contact the
60 appropriate law enforcement agency to collect the kit. Until the
61 kit is retrieved by law enforcement, the medical facility shall
62 store the kit in a refrigerated manner in conformity with the
63 Scientific Working Group for DNA Analysis Method.

64 (b) When a law enforcement agency is contacted to
65 collect a sexual assault evidence kit, the law enforcement agency
66 shall take possession of the kit from the medical facility within
67 twenty four (24) hours. Upon taking physical possession of the
68 sexual assault evidence collection kit, the law enforcement agency
69 shall transport the kit in a manner that preserves the evidence in
70 the kit. The agency shall: (i) store the kit in a secure,
71 refrigerated location in the agency no more than two (2) hours
72 after taking physical possession of the kit; or (ii) transport the
73 kit directly to the Mississippi Forensics Laboratory.

74 (c) All kits must be delivered to the Mississippi
75 Forensics Laboratory no later than seven (7) calendar days from
76 the date the law enforcement agency took physical possession of
77 the kit.

78 (d) A law enforcement agency that receives a sexual
79 assault collection kit from a healthcare provider that relates to
80 a report of a sexual assault that occurred outside the
81 jurisdiction of that law enforcement agency shall have the sexual
82 assault collection kit delivered to the law enforcement agency



83 having jurisdiction within ten (10) days of learning that the
84 other law enforcement agency has jurisdiction.

85 (3) (a) The Mississippi Forensics Laboratory shall test
86 sexual assault evidence collection kits within sixty (60) days of
87 receipt from a law enforcement agency. Forensic DNA testing shall
88 be performed according to laboratory methods that determine the
89 presence of DNA suitable for STR analysis. Any autosomal, CODIS
90 eligible DNA profile shall be entered into the Combined DNA Index
91 System (CODIS) or equivalency thereof and state or local DNA
92 database. If the Mississippi Forensics Laboratory is unable to
93 determine DNA present, other than the victim's DNA, in the sexual
94 assault evidence collection kit, the laboratory should evaluate
95 the case, when suitable, to determine if any other DNA results
96 could be used for investigative purposes.

97 (b) When forensic laboratory testing does result in a
98 DNA profile foreign to the victim, the Mississippi Forensics
99 Laboratory should enter the foreign DNA profile into the Combined
100 DNA Index System (CODIS) or equivalency thereof and any other
101 required state or local DNA databases. The average completion
102 rate for this analysis and classification should not exceed ninety
103 (90) days.

104 (c) The Mississippi Forensics Laboratory is authorized
105 to contract with other laboratories to ensure that each kit is
106 tested and the information from such kit is entered into CODIS,



107 when applicable, within the time frames required by this
108 subsection.

109 **SECTION 2.** (1) Upon the request of a sexual assault victim
110 or their designee, the law enforcement agency that is
111 investigating the assault of such victim shall inform the victim
112 of the location of the sexual assault evidence kit or other crime
113 scene evidence from the victim's case and the status of the DNA
114 testing of the sexual assault evidence kit or other crime scene
115 evidence from the victim's case.

116 (2) The law enforcement agency shall respond to the victim's
117 request as soon as possible, but no longer than seven (7) calendar
118 days, with either an oral or written communication, or by email,
119 if an email address is available.

120 (3) In addition to the rights provided in the "Mississippi
121 Crime Victims' Bill of Rights," in Sections 99-43-1 through
122 99-43-101, a victim of sexual assault shall have:

123 (a) The right to be informed by the law enforcement
124 agency handling the case whether a DNA profile of the assailant
125 was obtained from the testing of the sexual assault evidence kit
126 or other crime scene evidence from their case.

127 (b) The right to be informed whether the DNA profile of
128 the assailant developed from the sexual assault evidence kit or
129 other crime scene evidence has been entered into the Mississippi
130 Forensics Laboratory's DNA identification system or CODIS.



131 (c) The right to be informed whether there is a match
132 between the DNA profile of the assailant developed from the rape
133 kit evidence or other crime scene evidence and a DNA profile
134 contained in the Mississippi Forensics Laboratory's DNA
135 identification system, provided that disclosure would not impede
136 or compromise an ongoing investigation.

137 (4) If the law enforcement agency intends to destroy or
138 dispose of the sexual assault evidence kit or any other crime
139 scene evidence from an unsolved sexual assault case, the victim of
140 the case shall be given written notification by the law
141 enforcement agency of that intention within twenty (20) days. The
142 victim shall be granted further preservation of the kit or its
143 probative contents, upon their request.

144 (5) A law enforcement agency shall not destroy or dispose of
145 the sexual assault evidence kit or any other crime scene evidence
146 from an unsolved sexual assault case before twenty (20) years
147 after the collection of the evidence of the crime or, if the
148 victim was under eighteen (18) years of age at the time of the
149 alleged offense, before the victim is forty (40) years of age.

150 (6) A sexual assault victim may designate a sexual assault
151 victim advocate, or other support person of the victim's choosing,
152 to act as a recipient of the above information required to be
153 provided by this section.

154 (7) For the purpose of receiving notice under this section,
155 the victim or the victim's designee may keep appropriate



156 authorities informed of the name, address, telephone number, and
157 email address of the person to whom the information should be
158 provided, and any changes of the name, address, telephone number,
159 and email address, if an email address is available.

160 (8) A defendant or person accused or convicted of a crime
161 against the victim shall have no standing to object to any failure
162 to comply with this section. The failure to provide a right or
163 notice to a sexual assault victim under this section may not be
164 used by a defendant to seek to have the conviction or sentence set
165 aside.

166 (9) The sole civil or criminal remedy available to a sexual
167 assault victim for a law enforcement agency's failure to fulfill
168 its responsibilities under this section shall be standing to file
169 a writ of mandamus to require compliance with subdivision with the
170 requirements of this act.

171 **SECTION 3.** (1) The Mississippi Forensics Laboratory, in
172 consultation with the Sexual Assault Evidence Accountability Task
173 Force, and the Mississippi Department of Public Safety, shall
174 conduct a study and issue a report by July 1, 2024, that examines
175 the resources required to implement a rape kit tracking system in
176 the state that shall:

177 (a) Be operated and managed by the Mississippi
178 Department of Public Safety or Mississippi Forensic Laboratory for
179 the purpose of tracking all rape kits collected for testing or
180 analysis;



181 (b) Be accessible to sexual assault victims and other
182 authorized users as determined by the Mississippi Department of
183 Public Safety; and

184 (c) Function as an online accessible database capable
185 of receiving, maintaining, storing and preserving tracking
186 information related to the testing and analysis of all rape kits.

187 (2) The Mississippi Department of Public Safety and
188 Mississippi Forensic Laboratory shall issue a report of its
189 findings and recommendations to the Legislature within twelve (12)
190 months of the effective date of this section. The report shall,
191 at a minimum, identify the following:

192 (a) The resources and training needed to implement,
193 manage and maintain a rape kit tracking system;

194 (b) The costs associated with implementing, managing
195 and maintaining a rape kit tracking system;

196 (c) Potential sources of funding for implementing,
197 managing and maintaining a rape kit tracking system; and

198 (d) The benefits to victims and to public safety
199 associated with implementing a rape kit tracking system in
200 Mississippi and recommendations on implementing, managing and
201 maintaining an efficient and cost effective rape kit tracking
202 system.

203 **SECTION 4.** There is created the "Sexual Assault Evidence
204 Accountability Task Force" for the purpose of developing and
205 approving standardized policies and procedures concerning the



206 sexual assault evidence collection kit. The committee shall be
207 comprised of the following nine (9) members:

208 (a) The director of the Mississippi Forensic Laboratory
209 or their designee;

210 (b) One (1) representative from the Mississippi
211 Department of Public Safety;

212 (c) One (1) district attorney appointed by the
213 Mississippi Prosecutors' Association;

214 (d) One (1) sexual assault investigator appointed by
215 the Mississippi Association of Chiefs of Police;

216 (e) One (1) sexual assault investigator appointed by
217 the Mississippi Sheriffs' Association;

218 (f) One (1) investigator from the Mississippi Attorney
219 General's Office;

220 (g) One (1) sexual assault nurse examiner practicing in
221 north Mississippi appointed by the President of the Board of
222 Directors of the Mississippi Association of Forensic Nurses
223 (MAFN);

224 (h) One (1) sexual assault nurse examiner practicing in
225 central Mississippi appointed by the President of the Board of
226 Directors of the Mississippi Association of Forensic Nurses
227 (MAFN);

228 (i) One (1) sexual assault nurse examiner practicing in
229 south Mississippi appointed by the President of the Board of



230 Directors of the Mississippi Association of Forensic Nurses
231 (MAFN);

232 (j) One (1) physician appointed by the Mississippi
233 State Medical Association; and

234 (k) One (1) physician appointed by the Mississippi
235 Psychiatric Association.

236 **SECTION 5.** Section 99-43-7, Mississippi Code of 1972, is
237 brought forward as follows:

238 99-43-7. (1) Unless the victim is unavailable or
239 incapacitated as a result of the crime, within seventy-two (72)
240 hours after the law enforcement agency becomes responsible for
241 investigating the crime, the law enforcement agency shall provide
242 to the victim in a manner and form prescribed by the Attorney
243 General the following information:

244 (a) The availability of emergency and crisis services.

245 (b) The availability of victims' compensation benefits
246 and the address and telephone number of the Victim Compensation
247 Division.

248 (c) The name of the law enforcement officer and
249 telephone number of the law enforcement agency with the following
250 statement attached: "If within sixty (60) days you are not
251 notified of an arrest in your case, you may call the telephone
252 number of the law enforcement agency for the status of the case."

253 (d) The procedural steps involved in a criminal
254 prosecution.



255 (e) The rights authorized by the Mississippi
256 Constitution on rights of victims, including a form to invoke
257 these rights.

258 (f) The existence of and eligibility requirements for
259 restitution and compensation pursuant to Section 99-37-1 et seq.
260 and Section 99-41-1 et seq., Mississippi Code of 1972.

261 (g) A recommended procedure if the victim is subjected
262 to threats or intimidation.

263 (h) The name and telephone number of the office of the
264 prosecuting attorney to contact for further information.

265 (2) In the event a victim initiates proceedings against a
266 person by filing an affidavit, petition or complaint in a court of
267 competent jurisdiction, the clerk of the court shall provide the
268 victim with the information set forth in subsection (1); however,
269 in lieu of the information set forth in subsection (1)(c), the
270 clerk shall advise the victim of the name and telephone number of
271 the law enforcement agency to which the complaint will be
272 referred. This information shall be provided on a form prescribed
273 by the Attorney General. Failure of the clerk of court to provide
274 such information shall not subject the clerk to any criminal or
275 civil liability.

276 **SECTION 6.** Section 45-47-1, Mississippi Code of 1972, is
277 amended as follows:

278 45-47-1. (1) Every person who is arrested for the
279 commission or attempted commission of a * * * felony shall provide



280 a biological sample for DNA testing to jail or detention center
281 personnel upon booking. The analysis shall be performed by the
282 Mississippi Forensics * * * Laboratory or other entity designated
283 by the Department of Public Safety, and the results shall be
284 maintained by the Forensics * * * Laboratory according to standard
285 protocols adopted for maintenance of DNA records in conformity to
286 federal guidelines for the maintenance of such records.

287 (2) (a) A DNA sample shall be collected by an individual
288 who is trained in the collection procedures that the Forensics
289 Laboratory uses.

290 (b) Upon * * * receipt of an expungement request from a
291 person whose DNA has been included in the state database in
292 accordance with this section, the Forensics * * * Laboratory shall
293 destroy the sample and delete from the database all records
294 thereof if there is no other pending qualifying warrant or capias
295 for an arrest or felony conviction that would require that the
296 sample remain in the DNA data bank * * * and:

297 (i) The charge for which the sample was taken is
298 dismissed;

299 (ii) The defendant is acquitted at trial or
300 convicted of a lesser-included misdemeanor offense that is not an
301 offense listed in this section;

302 (iii) No charge was filed within the statute of
303 limitations, if any; or



304 (iv) No conviction has occurred, at least three
305 (3) years have passed since the date of arrest, and there is no
306 active prosecution.

307 (3) (a) Any person who, without authority, disseminates
308 information contained in the DNA data bank shall be guilty of a
309 misdemeanor.

310 (b) Any person who disseminates, receives, or otherwise
311 uses or attempts to use information in the DNA data bank, knowing
312 that the dissemination, receipt or use is for a purpose other than
313 as authorized by law, shall be guilty of a misdemeanor.

314 (c) Except as authorized by law, any person who obtains
315 or attempts to obtain any sample for purposes of having DNA
316 analysis performed shall be guilty of a felony.

317 (4) (a) Any person convicted under subsection (3)(a) shall
318 be sentenced to a fine not to exceed Five Hundred Dollars
319 (\$500.00) or confinement in the county jail not to exceed thirty
320 (30) days, or both.

321 (b) Any person convicted under subsection (3)(b) shall
322 be sentenced to a fine not to exceed One Thousand Dollars
323 (\$1,000.00) or confinement in the county jail not to exceed six
324 (6) months, or both.

325 (c) Any person convicted under subsection (3)(c) shall
326 be sentenced to a fine not to exceed One Thousand Dollars
327 (\$1,000.00) or commitment to the custody of the Department of
328 Corrections not to exceed two (2) years, or both.



329 (5) A defendant may file a motion with the court to seek
330 destruction of the DNA sample and deletion of such information
331 from the record under this section.

332 **SECTION 7.** Section 99-49-1, Mississippi Code of 1972, is
333 amended as follows:

334 99-49-1. (1) **Legislative intent.** The Legislature finds
335 that:

336 (a) The value of properly preserved biological evidence
337 has been enhanced by the discovery of modern DNA testing methods,
338 which, coupled with a comprehensive system of DNA databases that
339 store crime scene and offender profiles, allow law enforcement to
340 improve its crime-solving potential;

341 (b) Tapping the potential of preserved biological
342 evidence requires the proper identification, collection,
343 preservation, storage, cataloguing and organization of such
344 evidence;

345 (c) Law enforcement agencies indicate that "cold" case
346 investigations are hindered by an inability to access biological
347 evidence that was collected in connection with criminal
348 investigations;

349 (d) Innocent people mistakenly convicted of the serious
350 crimes for which biological evidence is probative cannot prove
351 their innocence if such evidence is not accessible for testing in
352 appropriate circumstances;



353 (e) It is well established that the failure to update
354 policies regarding the preservation of evidence squanders valuable
355 law enforcement resources, manpower hours and storage space; and

356 (f) Simple but crucial enhancements to protocols for
357 properly preserving biological evidence can solve old crimes,
358 enhance public safety and settle claims of innocence.

359 (2) **Definitions.** For the purposes of this section:

360 (a) "Biological evidence" means the contents of a
361 sexual assault examination kit or any item that contains blood,
362 semen, hair, saliva, skin tissue, fingernail scrapings, bone,
363 bodily fluids or other identifiable biological material that was
364 collected as part of the criminal investigation or may reasonably
365 be used to incriminate or exculpate any person for the offense.
366 This definition applies whether that material is catalogued
367 separately, such as on a slide, swab or in a test tube, or is
368 present on other evidence, including, but not limited to,
369 clothing, ligatures, bedding or other household material, drinking
370 cups, cigarettes or other items.

371 (b) "DNA" means deoxyribonucleic acid.

372 (c) "Custody" means persons currently incarcerated;
373 civilly committed; on parole or probation; or subject to sex
374 offender registration for the period of the registration or for
375 the first five (5) years of the registration, whichever is the
376 shorter period.



377 (d) "Profile" means * * * an autosomal, Y chromosome,
378 or mitochondrial DNA profile generated from an individual.

379 (e) "State" refers to any governmental or public entity
380 within Mississippi, including all private entities that perform
381 such functions, and its officials or employees, including, but not
382 limited to, law enforcement agencies, prosecutors' offices,
383 courts, public hospitals, forensics laboratories, and any other
384 entity or individual charged with the collection, storage or
385 retrieval of biological evidence.

386 (3) **Preservation of evidence procedures.** (a) The state
387 shall preserve all biological evidence:

388 (i) That is secured in relation to an
389 investigation or prosecution of a crime for the period of time
390 that the crime remains unsolved or as otherwise provided by law
391 for that crime; or

392 (ii) That is secured in relation to an
393 investigation or prosecution of a crime for the period of time
394 that the person convicted of that crime remains in custody or as
395 otherwise provided by law for that crime.

396 (b) This section applies to evidence that:

397 (i) Was in the possession of the state during the
398 investigation and prosecution of the case; and

399 (ii) At the time of conviction was likely to
400 contain biological material.



401 (c) The state shall not destroy biological evidence
402 should one or more additional co-defendants, convicted of the same
403 crime, remain in custody, and shall preserve the evidence for the
404 period of time in which all co-defendants remain in custody or as
405 otherwise provided by law for that crime.

406 (d) The state shall retain evidence in the amount and
407 manner sufficient to develop a DNA profile from the biological
408 material contained in or included on the evidence.

409 (e) Upon written request by the defendant, the state
410 shall prepare an inventory of biological evidence that has been
411 preserved in connection with the defendant's criminal case.

412 (f) The state may destroy evidence that includes
413 biological material before the expiration of the time period as
414 provided in Section 45-47-1 or as specified in paragraph (a) of
415 this subsection if all of the following apply:

416 (i) No other provision of federal or state law
417 requires the state to preserve the evidence.

418 (ii) The state sends certified delivery of notice
419 of intent to destroy the evidence to:

420 1. All persons who remain in custody as a
421 result of the criminal conviction, delinquency adjudication, or
422 commitment related to evidence in question;

423 2. The attorney of record for each person in
424 custody;



425 3. The Mississippi Office of Indigent
426 Appeals;

427 4. The district attorney in the county of
428 conviction; and

429 5. The Mississippi Attorney General.

430 (iii) No person who is notified under subparagraph
431 (ii) of this paragraph (f) does either of the following within
432 sixty (60) days after the date on which the person received the
433 notice:

434 1. Files a motion for testing of evidence
435 under * * * Chapter 39, Title 99, Mississippi Code of 1972; or

436 2. Submits a written request for retention of
437 evidence to the state entity which provided notice of its intent
438 to destroy evidence under subparagraph (ii) of this paragraph (f).

439 (g) If, after providing notice under paragraph (f) (ii)
440 of this subsection of its intent to destroy evidence, the state
441 receives a written request for retention of the evidence, the
442 state shall retain the evidence while the person remains in
443 custody.

444 (h) The state shall not be required to preserve
445 physical evidence that is of such a size, bulk or physical
446 character as to render retention impracticable. When such
447 retention is impracticable, the state shall remove and preserve
448 portions of the material evidence likely to contain biological
449 evidence related to the offense, in a quantity sufficient to



450 permit future DNA testing, before returning or disposing of the
451 physical evidence.

452 (i) Should the state be called upon to produce
453 biological evidence that could not be located and whose
454 preservation was required under the provisions of this statute,
455 the chief evidence custodian assigned to the entity charged with
456 the preservation of the evidence shall provide an affidavit in
457 which the custodian stipulates, under penalty of perjury, an
458 accurate description of the efforts taken to locate that evidence
459 and that the evidence could not be located.

460 (4) This section does not require the state to preserve the
461 biological evidence that is obtained in performing the test
462 required by Section 99-3-41 and is required to be destroyed under
463 that section.

464 (5) Any evidence in a murder, manslaughter or felony sexual
465 assault case in the possession of the state on July 1, 2009,
466 whether biological or not, shall be preserved by the state
467 consistent with the legislative intent expressed in subsection (1)
468 and subject to compliance with subsection (3)(f).

469 (6) **Remedies for noncompliance.** If the court finds that
470 biological evidence was destroyed in violation of the provisions
471 of this section, it may impose appropriate sanctions and order
472 appropriate remedies.

473 **SECTION 8.** This act shall take effect and be in force from
474 and after July 1, 2023.



Further, amend by striking the title in its entirety and inserting in lieu thereof the following:

1 AN ACT TO PROVIDE A PROCESS TO COLLECT AND PRESERVE SEXUAL
2 ASSAULT EVIDENCE COLLECTION KITS; TO REQUIRE THE LAW ENFORCEMENT
3 AGENCY TO IMMEDIATELY COLLECT AND STORE THE KIT IN COMPLIANCE WITH
4 CERTAIN STANDARDS; TO REQUIRE THE LAW ENFORCEMENT AGENCY TO SEND
5 THE KIT TO THE MISSISSIPPI FORENSICS LABORATORY WITHIN A CERTAIN
6 NUMBER OF DAYS; TO REQUIRE THE FORENSICS LABORATORY TO PROCESS THE
7 KIT AND ENTER CERTAIN DNA INFORMATION INTO THE APPROPRIATE
8 FEDERAL, STATE AND LOCAL DATABASES; TO PROVIDE ADDITIONAL RIGHTS
9 FOR SEXUAL ASSAULT VICTIMS; TO REQUIRE THE MISSISSIPPI FORENSICS
10 LABORATORY, THE MISSISSIPPI ASSOCIATION OF FORENSIC NURSES AND THE
11 MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY TO CONDUCT A STUDY AND
12 ISSUE A REPORT THAT EXAMINES THE RESOURCES REQUIRED TO IMPLEMENT A
13 RAPE KIT TRACKING SYSTEM; TO CREATE THE SEXUAL ASSAULT EVIDENCE
14 ACCOUNTABILITY TASK FORCE; TO BRING FORWARD SECTION 99-43-7,
15 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE CRIME VICTIMS'
16 BILL OF RIGHTS, FOR PURPOSES OF AMENDMENT; TO AMEND SECTION
17 45-47-1, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT DNA SAMPLES
18 SHALL BE COLLECTED FROM PERSONS ARRESTED FOR ANY FELONY AND TO
19 PROVIDE THAT THE DNA SAMPLE SHALL BE DESTROYED ONLY UPON RECEIPT
20 OF AN EXPUNGEMENT REQUEST FROM THE PERSON WHOSE DNA HAS BEEN
21 INCLUDED IN THE STATE DATABASE; TO AMEND SECTION 99-49-1,
22 MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

