

A BILL

FOR AN ACT ENTITLED

"An Act requiring the Department of Public Safety provide information on the number of sexual assault kits ineligible for testing and the number of anonymous sexual assault kits in its possession"

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

\* **Section 1.** AS 44.41.070 is amended to read:

(a) By September 1 of each year, each law enforcement agency and state department charged with the maintenance, storage, and preservation of sexual assault examination kits shall conduct an inventory of untested sexual assault examination kits and report, in writing, to the Department of Public Safety the number of untested sexual assault examination kits in the possession of the agency or department and the date on which each untested sexual assault examination kit was collected.

(b) By November 1 of each year, the Department of Public Safety shall prepare and transmit a report to the president of the senate and the speaker of the house of representatives that contains

(1) the number of untested sexual assault examination kits stored by each law enforcement agency or department, including the number of kits ineligible for testing and why they are ineligible for testing;

(2) the date each untested sexual assault examination kit was collected; and

(3) a plan for addressing the backlog and prevention of a backlog of untested sexual assault examination kits.

(c) The Department of Public Safety shall deliver a copy of the report prepared under (b) of this section to the senate secretary and the chief clerk of the house of representatives and notify the legislature that the report is available.

(d) In this section, "untested sexual assault examination kit" means a sexual assault examination kit with evidence that

(1) has been collected but that has not been submitted to a laboratory operated or approved by the Department of Public Safety for either a serological or DNA test; or

(2) has been collected and submitted to a laboratory operated or approved by the Department of Public Safety but that has not had a serological or DNA test conducted on the evidence.

**Sec. 2.** This Act takes effect January 1, 2020.

## **Rationale**

According to the 2018 Department of Public (DPS) Safety Sexual Assault Kit Initiative (SAKI) report, some kits stored by the DPS are ineligible for testing. The reasons are:

1. Anonymous victim SAKs
2. CODIS ineligible SAKs (DNA is not eligible for entry into CODIS if it is determined that no crime was committed).
3. Scientifically unviable cases (e.g. damaged kits, some specific case circumstances, such as length of time between the alleged events and kit collection, etc.)

These are very diverse reasons for not testing kits, and it is important to distinguish how many kits are in each category.

The anonymous victims SAKs will only be tested when the victim reaches out to law enforcement. Currently, this is an arduous and complicated process rendered even more difficult by the opacity of SAKs storage. Reporting annually on the number of anonymous kits in storage will help victims and advocates alike by increasing the accountability.

In some jurisdiction, SAKs are tested as soon as they are collected, independently of whether a crime is determined to have been committed. This is to ensure that victims feel supported, independently of the outcome of an investigation. In Alaska, SAKs are only tested upon request by investigators or prosecutors. It is important to keep track of how many are untested for this reason.

Knowing how many SAKs are untested because they are scientifically unviable is also important. For example, if a majority of damaged SAKs kits comes from a specific police department, then training could be made available to the department to improve SAK testing outcomes.

Performing SAKs exams is a very demanding procedure for the victim and the provider. There are significant emotional and physical costs. There are also financial costs involved. Discovering which category most of the ineligible kits are in will help better target interventions and modify protocols.