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# A BILL FOR AN ACT

RELATING TO SEXUAL ASSAULT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 844D, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§844D- Sexual assault kit tracking program. (a) The  
5 department, in consultation with the department of the attorney  
6 general, shall establish a sexual assault kit tracking program  
7 to ensure that sexual assault kits are obtained and analyzed in  
8 a timely manner. The program shall require that:

9           (1) Beginning July 1, 2016, any law enforcement agency  
10           that receives a sexual assault kit obtained in  
11           connection with the investigation of a criminal case  
12           shall submit that sexual assault kit within ten  
13           business days of receipt to a laboratory authorized to  
14           analyze crime scene samples under section 844D-51;

15           (2) Any authorized laboratory that receives a sexual  
16           assault kit from a law enforcement agency shall  
17           complete analysis of that sexual assault kit within



1           six months of receipt; provided that sufficient  
2           staffing and resources are available;

3           (3) The results of all sexual assault kits submitted for  
4           analysis and analyzed shall be uploaded, pursuant to  
5           rules and internal operations established by the  
6           department, to the state DNA database and data bank  
7           identification program and the Federal Bureau of  
8           Investigation Combined DNA Index System;

9           (4) Any law enforcement agency that receives a sexual  
10           assault kit obtained in connection with the  
11           investigation of a criminal case shall provide written  
12           notice annually to the department of the attorney  
13           general, in a form and manner prescribed by the  
14           department of the attorney general, stating the number  
15           of sexual assault kits related to a criminal  
16           investigation in the custody of the department, or a  
17           designated entity, that have not been submitted to a  
18           laboratory for analysis; and

19           (5) Beginning July 1, 2016, no law enforcement agency  
20           shall release a sexual assault kit to a laboratory for  
21           testing unless it has received prior written



1           authorization from the complainant or the  
2           complainant's parent or legal guardian, if the  
3           complainant is a minor. The law enforcement agency  
4           shall retain the written authorization.

5           (b) The department of the attorney general shall make  
6           arrangements with one or more laboratories authorized to analyze  
7           crime scene samples under section 844D-51 to ensure that all  
8           sexual assault kits that were collected prior to July 1, 2016,  
9           and that are the subject of a criminal investigation are  
10           analyzed and that the results are entered into the state DNA  
11           database and data bank identification program and the Federal  
12           Bureau of Investigation Combined DNA Index System.

13           (c) The failure of a law enforcement agency to submit a  
14           sexual assault kit collected on or before July 1, 2016, pursuant  
15           to subsection (b) shall in no way alter the authority of the law  
16           enforcement agency to submit the sexual assault kit, the  
17           authority of a laboratory to accept and analyze the sexual  
18           assault kit, or the authority of the department to maintain or  
19           upload the results into the state DNA database and data bank  
20           identification program and the Federal Bureau of Investigation  
21           Combined DNA Index System.



1       (d) All sexual assault kit evidence submitted for analysis  
2 pursuant to this section shall be accompanied by the following  
3 signed certification:

4       "This evidence is being submitted by (name of investigating  
5 law enforcement agency) in connection with a prior or  
6 current criminal investigation."

7       (e) Evidence derived from the analysis of any sexual  
8 assault kit is not made inadmissible in court by the fact that  
9 it was not processed and analyzed within the timeframes required  
10 by this section.

11       (f) If the department receives written confirmation from  
12 the investigating law enforcement agency or the department  
13 otherwise determines that a record that has been uploaded into  
14 the state DNA database and data bank identification program and  
15 the Federal Bureau of Investigation Combined DNA Index System  
16 was not connected to a criminal investigation, the record shall  
17 be expunged from the state DNA database and data bank  
18 identification program pursuant to rules and procedures  
19 established by the department and from the Federal Bureau of  
20 Investigation Combined DNA Index System. The failure to expunge  
21 a record or strictly comply with this subsection shall not be



1 grounds for challenging the validity of a state DNA database and  
2 data bank identification program and the Federal Bureau of  
3 Investigation Combined DNA Index System match or other  
4 information, and evidence based upon or derived from the state  
5 DNA database and data bank identification program and the  
6 Federal Bureau of Investigation Combined DNA Index System shall  
7 not be excluded by a court for these reasons.

8 (g) The department of the attorney general shall adopt  
9 rules necessary to carry out the purposes of this section."

10 SECTION 2. Section 844D-1, Hawaii Revised Statutes, is  
11 amended by amending the definitions of "print impression",  
12 "sample", and "specimen" to read as follows:

13 "Print impression" means any fingerprint, thumbprint, palm  
14 print, or set of fingerprints or palm prints designated in the  
15 department's rules or internal regulations [~~adopted pursuant to~~  
16 ~~section 844D-3~~].

17 "Sample" means human biologic material collected in a  
18 manner specified in the department's rules or internal  
19 regulations [~~adopted pursuant to section 844D-3~~], including but  
20 not limited to, saliva collected by means of buccal swab.



1 "Specimen" means human biologic material collected in a  
2 manner specified in the department's rules or internal  
3 regulations [~~adopted pursuant to section 844D-3~~], including but  
4 not limited to blood."

5 SECTION 3. The police department of each county, the  
6 department of public safety, and the division of conservation  
7 and resources enforcement shall report their findings and  
8 recommendations regarding the sexual assault kit tracking  
9 program, including any proposed legislation, to the legislature  
10 no later than twenty days prior to the convening of the regular  
11 session of 2017. The report shall include the respective number  
12 of unprocessed sexual assault kits collected statewide prior to  
13 July 1, 2016, and the most up to date information on the  
14 reduction of any backlog. The police department of each county,  
15 the department of public safety, and the division of  
16 conservation and resources enforcement shall make the report  
17 available to the public on their respective websites.

18 SECTION 4. There is appropriated out of the general  
19 revenues of the State of Hawaii the sum of \$ or so much  
20 thereof as may be necessary for fiscal year 2016-2017 for the  
21 department of the attorney general to ensure that all sexual



1 assault kits that are the subject of a criminal investigation  
2 and collected prior to July 1, 2016, are analyzed.

3 The sum appropriated shall be expended by the department of  
4 the attorney general for the purposes of this Act.

5 SECTION 5. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 6. This Act shall take effect on July 1, 3000.



**Report Title:**

Evidence; Sexual Assault Kit Tracking Program

**Description:**

Establishes the Sexual Assault Kit Tracking Program in the Honolulu Police Department, including requirements for submission of kits for testing, reporting information to state and federal DNA databases, obtaining consent prior to testing, and admissibility of evidence in judicial proceedings. Requires reporting on program implementation and kit testing backlog. Makes appropriation to Department of the Attorney General.

(HB1907 HD2)

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