

Senate Study Bill 1104 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED ATTORNEY GENERAL
BILL)

A BILL FOR

1 An Act relating to crime victims, including the collection of
2 evidence in sexual abuse cases and the establishment of an
3 automated tracking system involving sexual abuse evidence
4 collection kits.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 13.31, Code 2021, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 8. Establish and administer the kit
4 tracking system established pursuant to section 915.53 for
5 tracking the location and status of sexual abuse evidence
6 collection kits.

7 Sec. 2. Section 709.10, Code 2021, is amended by striking
8 the section and inserting in lieu thereof the following:

9 **709.10 Sexual abuse — evidence.**

10 1. As used in this section:

11 *a. "Forensic medical examination"* means a sexual abuse
12 examination by a health care provider for the purpose of
13 gathering and preserving evidence of sexual abuse.

14 *b. "Kit"* means a sexual abuse evidence collection kit that
15 includes a human biological specimen collected by a health care
16 provider during a forensic medical examination.

17 *c. "Kit tracking system"* means the automated sexual abuse
18 evidence collection kit tracking system established pursuant
19 to section 915.53.

20 *d. "Laboratory"* means the state criminalistics laboratory or
21 similar qualified laboratory.

22 *e. "Law enforcement agency"* means any governmental agency
23 that investigates persons suspected of or charged with a
24 sex abuse crime. *"Law enforcement agency"* also includes
25 any governmental agency that collects, stores, processes,
26 transmits, or disseminates analysis of evidence collected in
27 connection with a sexual abuse related crime.

28 2. The state criminalistics laboratory or its designee
29 shall enter information relating to new, unused kits into the
30 kit tracking system within five business days upon receipt of
31 a kit. The state criminalistics laboratory or its designee
32 shall provide a health care provider with a new, unused kit
33 upon request and shall document dissemination of each kit
34 to a health care provider in the kit tracking system within
35 forty-eight hours of dissemination to the health care provider.

1 3. A health care provider shall enter information relating
2 to each new kit into the kit tracking system within forty-eight
3 hours of receipt of the kit.

4 4. When a reported victim of sexual abuse consents to
5 undergo a forensic medical examination and to having the
6 evidence from the examination preserved, the health care
7 provider conducting the forensic medical examination shall
8 utilize a kit. The health care provider conducting the
9 forensic medical examination shall contact the law enforcement
10 agency under whose jurisdiction the sexual abuse offense
11 occurred within forty-eight hours after the evidence was
12 collected from a victim to notify the law enforcement agency
13 to collect and store the kit. The health care provider shall
14 document which law enforcement agency the kit is transferred
15 to in the kit tracking system within forty-eight hours of
16 collection of the evidence.

17 5. The law enforcement agency collecting the evidence
18 shall obtain the kit from a health care provider and properly
19 store the kit to ensure the chain of custody is complete and
20 sufficient. The law enforcement agency shall document receipt
21 of the kit from the health care provider in the kit tracking
22 system within forty-eight hours of obtaining the kit.

23 6. The law enforcement agency shall store the kit in a
24 clean, dry location for a minimum of fifteen years, or in the
25 case of a minor victim for a minimum of fifteen years after the
26 minor reaches the age of majority, even if the reported victim
27 of sexual abuse has not filed a criminal complaint.

28 7. Prior to the disposal of a kit by a law enforcement
29 agency, the law enforcement agency shall notify the reported
30 victim of the intended date of disposal of the kit, the
31 reason for disposal of the kit, and the options that remain
32 available for retention and analysis of the kit, if any. The
33 law enforcement agency shall obtain written approval from the
34 appropriate county attorney and retain that approval in the
35 victim's case file prior to disposal. Any kit disposed of

1 shall be documented by a law enforcement agency in the kit
2 tracking system within forty-eight hours of disposal.

3 8. The law enforcement agency transferring a kit to a
4 laboratory for analysis shall document the transfer of the
5 kit in the kit tracking system within forty-eight hours of
6 transferring the kit.

7 9. The laboratory shall document receipt of the kit in the
8 kit tracking system within forty-eight hours of logging the kit
9 into its evidence management system.

10 10. When an analysis of the evidence collected from
11 a victim's forensic medical examination is complete, the
12 laboratory shall enter the results of the analysis into the
13 kit tracking system and return the kit to the appropriate
14 law enforcement agency. The laboratory shall document the
15 transfer of the kit in the kit tracking system to the law
16 enforcement agency within forty-eight hours of the transfer.
17 The law enforcement agency shall document receipt of the kit
18 within forty-eight hours of receipt and shall store the kit in
19 accordance with this section.

20 11. a. A health care provider shall provide a victim of
21 sexual abuse with a consent form created by the department of
22 justice prior to a forensic medical examination. The consent
23 form shall include information allowing the victim to document
24 the victim's consent or refusal to the collection and storage
25 of the evidence collected from the victim's forensic medical
26 examination, to release such evidence to a laboratory for
27 analysis, and to make a report to law enforcement. The consent
28 form shall also include information that the victim is not
29 required to participate in the criminal justice system; to
30 participate in an interview with law enforcement; to undergo a
31 forensic medical examination; or to allow an analysis of the
32 evidence collected; that the victim may withdraw consent for
33 the collection of the victim's evidence or an analysis of the
34 evidence at any time; and that if the victim does not initially
35 consent to make a report to a law enforcement agency or to

1 allow an analysis of the evidence collected, the victim may
2 choose to provide a report to a law enforcement agency or may
3 consent to an analysis of the evidence at any time within the
4 required kit retention period specified in subsection 6.

5 *b.* The consent form shall provide notice to the victim of
6 the victim's statutory rights pursuant to section 709.22.

7 *c.* A copy of the victim's consent form shall be maintained
8 by the health care provider in the victim's records and in the
9 kit with the evidence collected.

10 *d.* A copy of the consent form shall be provided to the
11 victim.

12 *e.* A copy of the consent form shall accompany the health
13 care provider's billing statement for the health care
14 provider's exam fee submitted to the crime victim assistance
15 division of the department of justice. The health care
16 provider shall submit a copy of the consent form to the crime
17 victim assistance division of the department of justice even if
18 there are no charges associated with the health care provider's
19 examination.

20 12. The rights of a victim pursuant to chapter 915 attach
21 when the victim consents to participate in an interview with
22 law enforcement, to a forensic medical examination, and to
23 allow an analysis of the evidence collected.

24 13. If a reported victim does not want the victim's name
25 recorded on the kit, the kit shall be deemed an anonymous kit
26 and a case number or the number assigned to the kit by the
27 kit tracking system shall be used in place of the name of the
28 reported victim and entered into the kit tracking system by the
29 health care provider within forty-eight hours of receipt of
30 the kit. An anonymous kit shall not be submitted for analysis
31 until a victim has provided law enforcement with a criminal
32 report and has consented to an analysis of the evidence
33 collected from the victim's forensic medical examination.

34 14. A victim who initially chooses not to participate in
35 an interview with a law enforcement agency may, at any point

1 during the time period provided in subsection 6, contact
2 the law enforcement agency to agree to an interview with
3 the law enforcement agency and to consent to an analysis of
4 the evidence collected from the victim's forensic medical
5 examination.

6 15. A victim who decides to participate in the investigation
7 of a reported sexual abuse or in a forensic medical examination
8 may choose to cease participation at any time and shall not
9 be compelled to continue participating in the investigation
10 or a forensic medical examination. If the analysis of the
11 evidence collected from a victim's forensic medical examination
12 indicates a connection with another reported sexual abuse
13 offense, the victim shall not be compelled to participate in
14 the criminal or civil proceedings of the related case.

15 Sec. 3. Section 915.11, Code 2021, is amended to read as
16 follows:

17 **915.11 ~~Initial notification~~ Notifications by law enforcement.**

18 1. A local police department or county sheriff's department
19 shall advise a victim of the right to register with the county
20 attorney, and shall provide a request-for-registration form to
21 each victim. A local police department or county sheriff's
22 department shall provide a telephone number and internet
23 site to each victim to register with the automated victim
24 notification system established pursuant to [section 915.10A](#).

25 2. a. If a victim of a reported sexual abuse requests
26 the results of an analysis of the evidence collected from the
27 victim's forensic medical examination pursuant to section
28 709.10 and such analysis was completed, a local police
29 department or county sheriff's department shall inform the
30 victim of the results, including whether the analysis produced
31 a DNA profile as defined in section 81.1 or a DNA match, either
32 to the named alleged perpetrator of the sexual abuse or to a
33 suspect already in the DNA database.

34 b. Prior to the disposal of a kit by a law enforcement
35 agency, the law enforcement agency shall notify the reported

1 victim of the intended date of disposal of the kit, the reason
2 for disposal of the kit, and the options that remain available
3 for retention and analysis of the kit, if any. For purposes
4 of this paragraph, "kit" means the same as defined in section
5 915.53.

6 Sec. 4. Section 915.41, Code 2021, is amended to read as
7 follows:

8 **915.41 Medical examination costs.**

9 1. The cost of a medical examination of a victim for the
10 purpose of gathering evidence and the cost of treatment of a
11 victim for the purpose of preventing venereal disease shall be
12 paid from the fund established in section 915.94.

13 2. If a sexual abuse evidence collection kit is collected
14 pursuant to section 709.10, payment for the health care
15 provider's fee and the laboratory fee, if any, shall not be
16 made until the department of justice verifies that the status
17 of the sexual abuse evidence collection kit has been updated
18 by the health care provider utilizing the kit tracking system
19 established pursuant to section 915.53.

20 Sec. 5. Section 915.52, Code 2021, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 4A. An office, agency, or department
23 may satisfy a notification obligation to registered victims
24 required by this subchapter through participation in the kit
25 tracking system established pursuant to section 915.53 to the
26 extent information is available for dissemination through
27 the kit tracking system. This section shall not relieve a
28 notification obligation under this subchapter due to the
29 unavailability of information for dissemination through the kit
30 tracking system.

31 Sec. 6. NEW SECTION. **915.53 Automated tracking system —**
32 **sexual abuse evidence collection kits.**

33 1. As used in this section:

34 *a. "Forensic medical examination"* means the same as defined
35 in section 709.10.

1 *b.* "Kit" means the same as defined in section 709.10.

2 *c.* "Kit tracking system" means the automated sexual abuse
3 evidence collection kit tracking system established pursuant to
4 this section.

5 *d.* "Laboratory" means the same as defined in section 709.10.

6 2. The department of justice shall establish an automated
7 sexual abuse evidence collection kit tracking system within the
8 crime victim assistance division of the department of justice
9 to assist public officials in tracking and reporting the
10 location and status of sexual abuse evidence collection kits.

11 3. The kit tracking system shall have the ability to do all
12 of the following:

13 *a.* Track the location of a kit, including the initial
14 dissemination of a kit to a health care provider by the state
15 criminalistics laboratory or its designee, the collection of
16 evidence collected by a health care provider from a victim's
17 forensic medical examination, the receipt and storage of the
18 kit by a law enforcement agency, the receipt and analysis of
19 the kit by a laboratory, the storage of the kit after analysis,
20 and the disposal of the kit.

21 *b.* Allow a health care provider performing a forensic
22 medical examination, a law enforcement agency, a county
23 attorney, a laboratory, and other entities with custody of a
24 sexual abuse evidence collection kit to update and track the
25 status and location of a kit.

26 *c.* Allow a victim of sexual abuse to anonymously track
27 the status and location of a kit or to receive notifications
28 regarding the status of a kit.

29 *d.* Utilize an internet platform allowing for continuous
30 access to the kit tracking system.

31 4. A law enforcement agency shall participate in the kit
32 tracking system according to the implementation schedule
33 established by the department of justice.

34 5. A health care provider performing a forensic medical
35 examination shall participate in the kit tracking system

1 according to the implementation schedule established by the
2 department of justice. A health care provider shall inform the
3 victim of the number assigned to the kit.

4 6. The kit tracking system shall not contain any personally
5 identifying information about a victim of a reported sexual
6 abuse unless the information is protected through encryption.

7 7. An office, agency, or department may satisfy a
8 notification obligation to a victim as required by section
9 915.52 through participation in the kit tracking system to
10 the extent information is available for dissemination through
11 the kit tracking system. This section shall not relieve a
12 notification obligation under this subchapter due to the
13 unavailability of information for dissemination through the kit
14 tracking system.

15 8. Information contained in the kit tracking system shall
16 not be subject to discovery in a criminal case resulting from a
17 reported sexual abuse for which a kit has been collected and
18 information about the kit is maintained in the kit tracking
19 system.

20 Sec. 7. Section 915.80, subsection 8, Code 2021, is amended
21 to read as follows:

22 8. "*Survivor of a deceased victim*" means a survivor
23 who, at the time of the crime, is a spouse, former spouse,
24 child, foster child, parent, legal guardian, foster parent,
25 stepparent, sibling, or foster sibling of a victim, or a person
26 cohabiting with, or otherwise related by blood or affinity to,
27 a victim, if the victim dies as a result of a crime, a good
28 faith effort to prevent the commission of a crime, or a good
29 faith effort to apprehend a person suspected of committing a
30 crime.

31 Sec. 8. Section 915.94, Code 2021, is amended to read as
32 follows:

33 **915.94 Victim compensation fund.**

34 A victim compensation fund is established as a separate fund
35 in the state treasury. Moneys deposited in the fund shall

1 be administered by the department and dedicated to and used
2 for the purposes of [section 915.41](#) and [this subchapter](#). In
3 addition, the department may use moneys from the fund for the
4 purpose of the department's prosecutor-based victim service
5 coordination, including the duties defined in [sections 910.3](#)
6 and [910.6](#) and [this chapter](#), for the award of funds to programs
7 that provide services and support to victims of domestic abuse
8 as provided in [chapter 236](#), to victims of sexual abuse as
9 provided in [chapter 236A](#), to victims under [section 710A.2](#), for
10 reimbursement to the Iowa law enforcement academy for domestic
11 abuse and human trafficking training, and for the support of
12 an automated victim notification system established in section
13 915.10A and an automated sexual abuse evidence collection kit
14 tracking system established in section 915.53. For each fiscal
15 year, the department may also use up to three hundred thousand
16 dollars from the fund to provide training for victim service
17 providers, to provide training for related professionals
18 concerning victim service programming, and to provide training
19 concerning homicide, domestic assault, sexual assault,
20 stalking, harassment, and human trafficking as required by
21 section 710A.6. Notwithstanding [section 8.33](#), any balance in
22 the fund on June 30 of any fiscal year shall not revert to the
23 general fund of the state.

24 EXPLANATION

25 The inclusion of this explanation does not constitute agreement with
26 the explanation's substance by the members of the general assembly.

27 This bill relates to crime victims, including the collection
28 of evidence in sexual abuse cases and the establishment of a
29 tracking system involving sexual abuse evidence collection
30 kits.

31 The bill establishes an automated sexual abuse evidence
32 collection kit tracking system within the crime victim
33 assistance division of the department of justice. The
34 purpose of the kit tracking system is to allow victims, county
35 attorneys, and entities with custody of a sexual abuse evidence

1 collection kit (kit) to track the location and status of a
2 kit. The bill requires the state criminalistics laboratory to
3 provide health care providers with kits and requires health
4 care providers conducting forensic medical examinations of
5 victims of sexual abuse to utilize the kits. The bill requires
6 health care providers, laboratories, and law enforcement
7 agencies to document the location and status of a kit within
8 a specific time period. The bill provides requirements for
9 the storage and disposal of a kit including requiring victim
10 notification prior to disposal of a kit. The bill outlines
11 consent provisions for the victim regarding the collection and
12 testing of evidence collected from a victim's forensic medical
13 examination and participation with law enforcement. The
14 bill provides that the kit tracking system shall not contain
15 personally identifying information about a victim and provides
16 procedures for a victim wishing to remain anonymous.

17 The bill requires law enforcement to notify a victim of the
18 results of the analysis of the evidence collected from the
19 victim's forensic medical examination if the victim requests
20 that information. Victims may anonymously track the status and
21 location of a kit or receive notifications regarding the status
22 of the kit. The bill provides that under the protective order
23 victim notification system, an office, agency, or department
24 may satisfy a notification obligation through participation in
25 the kit tracking system.

26 The bill requires health care providers performing forensic
27 medical examinations on victims of sexual abuse to utilize the
28 kit tracking system. If evidence from a victim's forensic
29 medical examination is collected, the bill requires health
30 care provider participation in the kit tracking system before
31 payment is made from the victim compensation fund for the
32 health care provider's fee and the laboratory fee, if any.

33 The bill amends the definition of "survivor of a deceased
34 victim" for purposes of victim compensation to specify that a
35 survivor must have a specified status with the deceased victim

1 at the time of the crime.

2 The bill provides that "forensic medical examination",
3 "kit", and "laboratory" mean the same as defined in Code
4 section 709.10.