

**House File 426 - Reprinted**

HOUSE FILE 426  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 24)

(As Amended and Passed by the House March 9, 2021)

**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 manufacturer or distributor of a kit shall enter  
29 information relating to new, unused kits into the kit tracking  
30 system within five business days upon receipt of a kit. The  
31 manufacturer or distributor of a kit shall provide a health  
32 care provider with a new, unused kit upon request and shall  
33 document dissemination of each kit to a health care provider  
34 in the kit tracking system within forty-eight hours of  
35 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 seventy-two 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 seventy-two hours of  
6 transferring the kit.

7 9. The laboratory shall document receipt of the kit in the  
8 kit tracking system within seventy-two 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 law  
14 enforcement agency. The law enforcement agency shall document  
15 receipt of the kit within seventy-two hours of receipt and  
16 shall store the kit in accordance with this section.

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

1 required kit retention period specified in subsection 6.

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

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

7 *d.* A copy of the consent form shall be provided to the  
8 victim.

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

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

21 13. If a reported victim does not want the victim's name  
22 recorded on the kit, the kit shall be deemed an anonymous kit  
23 and a case number or the number assigned to the kit by the  
24 kit tracking system shall be used in place of the name of the  
25 reported victim and entered into the kit tracking system by the  
26 health care provider within forty-eight hours of receipt of  
27 the kit. An anonymous kit shall not be submitted for analysis  
28 until a victim has provided law enforcement with a criminal  
29 report and has consented to an analysis of the evidence  
30 collected from the victim's forensic medical examination. A  
31 law enforcement agency in possession of an anonymous kit may  
32 dispose of the kit thirty days after the fifteen-year retention  
33 period required under subsection 6.

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 medical or clinical laboratory fee, if  
16 any, shall not be made until the department of justice verifies  
17 that the status of the sexual abuse evidence collection kit  
18 has been updated by the health care provider utilizing the kit  
19 tracking system 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  
15 manufacturer or distributor of the kit, 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.

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.