HOUSE FILE 426
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 24)

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

[= New Language by the House

* = Language Stricken by the House

A BILL FOR

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

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

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

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

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

709.10 Sexual abuse — evidence.

1. As used in this section:

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

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

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

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

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

2. The manufacturer or distributor of a kit shall enter information relating to new, unused kits into the kit tracking system within five business days upon receipt of a kit. The manufacturer or distributor of a kit shall provide a health care provider with a new, unused kit upon request and shall document dissemination of each kit to a health care provider in the kit tracking system within forty-eight hours of dissemination to the health care provider.

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

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

5. The law enforcement agency collecting the evidence shall obtain the kit from a health care provider and properly store the kit to ensure the chain of custody is complete and sufficient. The law enforcement agency shall document receipt of the kit from the health care provider in the kit tracking system within seventy-two hours of obtaining the kit.

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

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

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

8. The law enforcement agency transferring a kit to a laboratory for analysis shall document the transfer of the kit in the kit tracking system within seventy-two hours of transferring the kit.

9. The laboratory shall document receipt of the kit in the kit tracking system within seventy-two hours of logging the kit into its evidence management system.

10. When an analysis of the evidence collected from a victim's forensic medical examination is complete, the laboratory shall enter the results of the analysis into the kit tracking system and return the kit to the appropriate law enforcement agency. The law enforcement agency shall document receipt of the kit within seventy-two hours of receipt and shall store the kit in accordance with this section.

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

required kit retention period specified in subsection 6.

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

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

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

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

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

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

* [collected from the victim's forensic medical examination. A law enforcement agency in possession of an anonymous kit may dispose of the kit thirty days after the fifteen-year retention period required under subsection 6.]

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

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

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

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

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

1. A local police department or county sheriff's department shall advise a victim of the right to register with the county attorney, and shall provide a request-for-registration form to each victim. A local police department or county sheriff's department shall provide a telephone number and internet site to each victim to register with the automated victim notification system established pursuant to section 915.10A.

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

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

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

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

915.41 Medical examination costs.

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

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

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

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

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

1. As used in this section:

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

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

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

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

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

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

a. Track the location of a kit, including the initial dissemination of a kit to a health care provider by the manufacturer or distributor of the kit, the collection of evidence collected by a health care provider from a victim's forensic medical examination, the receipt and storage of the kit by a law enforcement agency, the receipt and analysis of the kit by a laboratory, the storage of the kit after analysis, and the disposal of the kit.

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

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

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

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

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

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

6. The kit tracking system shall not contain any personally identifying information about a victim of a reported sexual abuse.

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

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

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

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