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1 A bill to be entitled 2 An act relating to retention of sexual offense 3 evidence; amending s. 943.326, F.S.; establishing a 4 minimum timeframe for the retention of specified 5 sexual offense evidence; requiring specified entities 6 to transfer such evidence to the Department of Law 7 Enforcement within a specified time period; requiring 8 the department to retain such evidence for the 9 required time period; requiring specified protocols for the transferring and storing of specified sexual 10 11 offense evidence; authorizing specified entities to approve destruction of such evidence in specified 12 13 circumstances; providing an effective date.

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Be It Enacted by the Legislature of the State of Florida:

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- Section 1. Subsection (3) of section 943.326, Florida Statutes, is amended, and subsection (1) of that section is republished, to read:
- 943.326 DNA evidence collected in sexual offense <u>forensic</u> <u>physical examinations and</u> investigations.—
- (1) A sexual offense evidence kit, or other DNA evidence if a kit is not collected, must be submitted to a member of the statewide criminal analysis laboratory system under s. 943.32 for forensic testing within 30 days after:

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CODING: Words stricken are deletions; words underlined are additions.

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(a) Receipt of the evidence by a law enforcement agency if a report of the sexual offense is made to the law enforcement agency; or

- (b) A request to have the evidence tested is made to the medical provider or the law enforcement agency by:
  - 1. The alleged victim;

- 2. The alleged victim's parent, guardian, or legal representative, if the alleged victim is a minor; or
- 3. The alleged victim's personal representative, if the alleged victim is deceased.
- (3) (a) Except as provided in paragraph (b) a collected sexual offense evidence kit, or other DNA evidence if a kit is not collected, collected from an alleged victim who reports a sexual offense to a law enforcement agency or who makes a request, or on whose behalf a request is made, for testing in compliance with paragraph (1)(b), must be retained in a secure, environmentally safe manner until the prosecuting agency has approved its destruction.
- (b)1. A sexual offense evidence kit collected from a person who does not report a sexual offense to a law enforcement agency during the forensic physical examination and who does not make a request, or have a request made on his or her behalf, in compliance with paragraph (1)(b) must be retained for a minimum of 50 years after the collection date. Within 30 days of collecting such a kit, the medical facility or certified rape

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the department, which must maintain the kit in compliance with this subparagraph. A sexual offense evidence kit that is transferred and retained pursuant to this subparagraph must be stored anonymously, in a secure, environmentally safe manner, and with a documented chain of custody.

2. If, at any time following the initial retention of a sexual offense evidence kit pursuant to subparagraph (b)1., an alleged victim makes a report to a law enforcement agency or makes a request, or has a request made on his or her behalf, for testing in compliance with paragraph (1)(b), the kit must be retained as described in paragraph (3)(a) if the applicable time limitation under s. 775.15 has not run and prosecution of a criminal case may still be commenced. In circumstances in which a criminal case may not be commenced because the applicable time limitation under s. 775.15 has expired, the kit must be maintained in a secure, environmentally safe manner until the department has approved its destruction.

Section 2. This act shall take effect July 1, 2024.