

# HB3366



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3366

Introduced 2/17/2023, by Rep. Daniel Didech

### SYNOPSIS AS INTRODUCED:

725 ILCS 203/10  
725 ILCS 203/30

Amends the Sexual Assault Incident Procedure Act. Provides that, except for certain medical examiner or coroner investigations, whenever a person's DNA profile is collected due to the person being a victim of a sexual assault or sexual abuse, that specific profile collected in conjunction with that criminal investigation shall not be entered into any DNA database. Defines "DNA database".

LRB103 29297 RLC 55684 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Sexual Assault Incident Procedure Act is  
5 amended by changing Sections 10 and 30 as follows:

6 (725 ILCS 203/10)

7 Sec. 10. Definitions. In this Act:

8 "Board" means the Illinois Law Enforcement Training  
9 Standards Board.

10 "DNA database" means a collection of DNA profiles from  
11 forensic casework or specimens from anonymous, identified, and  
12 unidentified sources that are created to search DNA records  
13 against each other to develop investigative leads among  
14 forensic cases.

15 "Evidence-based, trauma-informed, victim-centered" means  
16 policies, procedures, programs, and practices that have been  
17 demonstrated to minimize retraumatization associated with the  
18 criminal justice process by recognizing the presence of trauma  
19 symptoms and acknowledging the role that trauma has played in  
20 a sexual assault or sexual abuse victim's life and focusing on  
21 the needs and concerns of a victim that ensures compassionate  
22 and sensitive delivery of services in a nonjudgmental manner.

23 "Law enforcement agency having jurisdiction" means the law

1 enforcement agency in the jurisdiction where an alleged sexual  
2 assault or sexual abuse occurred.

3 "Sexual assault evidence" means evidence collected in  
4 connection with a sexual assault or sexual abuse  
5 investigation, including, but not limited to, evidence  
6 collected using the Illinois State Police Sexual Assault  
7 Evidence Collection Kit as defined in Section 1a of the Sexual  
8 Assault Survivors Emergency Treatment Act.

9 "Sexual assault or sexual abuse" means an act of  
10 nonconsensual sexual conduct or sexual penetration, as defined  
11 in Section 12-12 of the Criminal Code of 1961 or Section 11-0.1  
12 of the Criminal Code of 2012, including, without limitation,  
13 acts prohibited under Sections 12-13 through 12-16 of the  
14 Criminal Code of 1961 or Sections 11-1.20 through 11-1.60 of  
15 the Criminal Code of 2012.

16 (Source: P.A. 99-801, eff. 1-1-17.)

17 (725 ILCS 203/30)

18 Sec. 30. Release and storage of sexual assault evidence.

19 (a) A law enforcement agency having jurisdiction that is  
20 notified by a hospital or another law enforcement agency that  
21 a victim of a sexual assault or sexual abuse has received a  
22 medical forensic examination and has completed an Illinois  
23 State Police Sexual Assault Evidence Collection Kit shall take  
24 custody of the sexual assault evidence as soon as practicable,  
25 but in no event more than 5 days after the completion of the

1 medical forensic examination.

2 (a-5) A State's Attorney who is notified under subsection  
3 (d) of Section 6.6 of the Sexual Assault Survivors Emergency  
4 Treatment Act that a hospital is in possession of sexual  
5 assault evidence shall, within 72 hours, contact the  
6 appropriate law enforcement agency to request that the law  
7 enforcement agency take immediate physical custody of the  
8 sexual assault evidence.

9 (b) The written report prepared under Section 20 of this  
10 Act shall include the date and time the sexual assault  
11 evidence was picked up from the hospital and the date and time  
12 the sexual assault evidence was sent to the laboratory in  
13 accordance with the Sexual Assault Evidence Submission Act.

14 (c) If the victim of a sexual assault or sexual abuse or a  
15 person authorized under Section 6.5 of the Sexual Assault  
16 Survivors Emergency Treatment Act has consented to allow law  
17 enforcement to test the sexual assault evidence, the law  
18 enforcement agency having jurisdiction shall submit the sexual  
19 assault evidence for testing in accordance with the Sexual  
20 Assault Evidence Submission Act. No law enforcement agency  
21 having jurisdiction may refuse or fail to send sexual assault  
22 evidence for testing that the victim has released for testing.

23 (c-5) Except as otherwise provided in Section 9.5 of the  
24 Criminal Identification Act or Section 3-3013 of the Counties  
25 Code, whenever a person's DNA profile is collected due to the  
26 person being a victim of a sexual assault or sexual abuse, that

1 specific profile collected in conjunction with that criminal  
2 investigation shall not be entered into any DNA database.

3 (d) A victim shall have 10 years from the completion of an  
4 Illinois State Police Sexual Assault Evidence Collection Kit,  
5 or 10 years from the age of 18 years, whichever is longer, to  
6 sign a written consent to release the sexual assault evidence  
7 to law enforcement for testing. If the victim or a person  
8 authorized under Section 6.5 of the Sexual Assault Survivors  
9 Emergency Treatment Act does not sign the written consent at  
10 the completion of the medical forensic examination, the victim  
11 or person authorized by Section 6.5 of the Sexual Assault  
12 Survivors Emergency Treatment Act may sign the written release  
13 at the law enforcement agency having jurisdiction, or in the  
14 presence of a sexual assault advocate who may deliver the  
15 written release to the law enforcement agency having  
16 jurisdiction. The victim may also provide verbal consent to  
17 the law enforcement agency having jurisdiction and shall  
18 verify the verbal consent via email or fax. Upon receipt of  
19 written or verbal consent, the law enforcement agency having  
20 jurisdiction shall submit the sexual assault evidence for  
21 testing in accordance with the Sexual Assault Evidence  
22 Submission Act. No law enforcement agency having jurisdiction  
23 may refuse or fail to send the sexual assault evidence for  
24 testing that the victim has released for testing.

25 (e) The law enforcement agency having jurisdiction who  
26 speaks to a victim who does not sign a written consent to

1 release the sexual assault evidence prior to discharge from  
2 the hospital shall provide a written notice to the victim that  
3 contains the following information:

4 (1) where the sexual assault evidence will be stored  
5 for 10 years;

6 (2) notice that the victim may sign a written release  
7 to test the sexual assault evidence at any time during the  
8 10-year period by contacting the law enforcement agency  
9 having jurisdiction or working with a sexual assault  
10 advocate;

11 (3) the name, phone number, and email address of the  
12 law enforcement agency having jurisdiction; and

13 (4) the name and phone number of a local rape crisis  
14 center.

15 Each law enforcement agency shall develop a protocol for  
16 providing this information to victims as part of the written  
17 policies required in subsection (a) of Section 15 of this Act.

18 (f) A law enforcement agency must develop a protocol for  
19 responding to victims who want to sign a written consent to  
20 release the sexual assault evidence and to ensure that victims  
21 who want to be notified or have a designee notified prior to  
22 the end of the 10-year period are provided notice.

23 (g) Nothing in this Section shall be construed as limiting  
24 the storage period to 10 years. A law enforcement agency  
25 having jurisdiction may adopt a storage policy that provides  
26 for a period of time exceeding 10 years. If a longer period of

1 time is adopted, the law enforcement agency having  
2 jurisdiction shall notify the victim or designee in writing of  
3 the longer storage period.

4 (Source: P.A. 99-801, eff. 1-1-17; 100-1087, eff. 1-1-19.)