

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Samantha Montaño

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act providing for the allowance of Early Evidence Kits..

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Samantha Montaño</i>	<i>15th Suffolk</i>	<i>1/17/2025</i>

HOUSE No.

[Pin Slip]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act providing for the allowance of Early Evidence Kits..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Be it enacted by the Senate and House of Representatives in General Court assembled,
2 and by the authority of the same, as follows:

3 SECTION 1. Chapter 6A is hereby amended by inserting after section 18Y the following
4 section:-

5 Section 18Z (a)

6 “Sexual assault evidence collection kit” means physical evidence collected (1) by a
7 qualified health care provider; (2) from the body or clothing of a living or deceased person;
8 sexual assault evidence collection kit does not include a self-administered sexual assault
9 evidence collection kit.

10 “Early Evidence Kits” Professional services that enable the early collection and storage
11 of DNA, when accessing a traditional sexual assault forensic exam is not possible. The
12 admissibility of such kits are subject to scrutiny in court.

13 SECTION 2. Section 79 of Chapter 233 is amended by inserting the following
14 definition:-

15 "Hospital," means a hospital licensed or certified by the department pursuant to section
16 51 of chapter 111 or other applicable law, with an emergency department, and the teaching
17 hospital of the University of Massachusetts Medical School as defined in section 1 of chapter
18 111C.

19 SECTION 3. Section 97B of Chapter 41 of the General Laws is amended by removing
20 third through fifth paragraphs and inserting place thereof, the following:-

21 At the time the evidence is obtained, a hospital licensed pursuant to Chapter 111 shall
22 inform a victim of rape or sexual assault that the evidence of rape or sexual assault preserved in a
23 kit shall be kept for a period of not less than 15 years. This notice shall be provided to the victim
24 in writing by the hospital.

25 A governmental entity, including a local law enforcement agency, a district attorney's
26 office or any other official body of the commonwealth or of a county, city or town, that is in
27 possession of forensic evidence, as defined in section 220 of chapter 111 shall not destroy or
28 dispose of: (i) a sexual assault evidence collection kit; or (ii) forensic evidence that is collected
29 for its potential evidentiary value during the investigation of a rape or sexual assault unless one
30 of the following occur: (i) the case for which the evidence was collected resulted in a conviction
31 and the sentence has been completed; (ii) all suspects identified by testing a sexual assault
32 evidence collection kit are deceased (iii) or the length of the statute of limitations for the
33 identified crime whether or not that crime has been charged, and in no case shall the forensic
34 evidence be retained for less than 15 years. Each governmental entity shall retain all such

35 forensic evidence in a manner that is reasonably designed to preserve the forensic evidence and
36 to prevent its destruction or deterioration.

37 On written request by the victim from whom the evidence was collected, a law
38 enforcement agency with custody of a sexual assault evidence collection kit or other crime scene
39 evidence relating to a sexual assault shall: (i) notify the victim no later than 60 days before the
40 date of intended destruction or disposal of the evidence; or (ii) retain the evidence for 12 months
41 longer than the time period specified in paragraph 3 of this subsection or for a time period agreed
42 to by the victim and 3 the law enforcement agency.

43 The director of the crime laboratory within the department of state police and the forensic
44 sciences advisory board established by section 184A of chapter 6, shall promulgate regulations
45 governing the retention and preservation of forensic evidence by a governmental entity. The
46 regulations shall include: (i) standards for maintaining the integrity of the materials over time;
47 (ii) the designation of officials at each governmental entity with custodial responsibility; and (iii)
48 requirements for contemporaneously recorded documentation of individuals having and
49 obtaining custody of the forensic evidence; (iv) guidance on the use of early evidence kits; and
50 (v) in consultation with the Consumer Protection Division of the Office of the Attorney General,
51 educating consumers about the use of early evidence kits, including information regarding the
52 kits' admissibility in a criminal prosecution and identifying other resources for victims of sexual
53 assault.

54 SECTION 4. Section 97B1/2 of Chapter 41 of the General Laws is amended by inserting
55 after subsection (a) the following:-

56 (b) A health care provider that performs a sexual assault evidence collection kit exam on
57 a victim of sexual assault shall provide the victim with: (i) contact information for the
58 investigating law enforcement agency that the victim may contact about the status and results of
59 the kit analysis; and (ii) written information describing the laws and policies governing the
60 testing, preservation, and disposal of a sexual assault evidence collection kit; (iv) all
61 available results of the kit analysis except results that would impede or compromise an ongoing
62 investigation; and (v) contact information for the investigating law enforcement agency that the
63 victim may contact about the status and results of the kit analysis.

64 SECTION 5. Section 97B1/2 of Chapter 41 of the General Laws is amended by striking
65 clauses (b)-(d) and inserting the following:-

66 (c) The crime laboratory within the department of the state police or the police
67 department of a municipality that operates a crime laboratory and has a population of more than
68 150,000, in the case of a sexual assault alleged to have taken place in that municipality, shall test
69 all sexual assault evidence kits within 30 days of receipt from local law enforcement.

70 (d) In instances where the crime laboratory within the department of the state police or
71 the police department of a municipality that operates a crime laboratory has a population of less
72 than 150,000, in the case of a sexual assault alleged to have taken place in that municipality, the
73 laboratory may accept self-administered sexual assault evidence kit as defined in section 18Z of
74 chapter 6A that if accepted shall be tested all sexual within 30 days of receipt from local law
75 enforcement.

76 (d) Early evidence kits may be transferred to a law enforcement agency: (i) by a hospital
77 or a child advocacy center within 30 days after the exam is performed; or (ii) by a government

78 agency in possession of a kit, unless the agency is otherwise required to retain the kit by law or
79 court rule.

80 (e) Except as provided in subsection Section 214 of Chapter 69 of the Acts of 2018, an
81 investigating law enforcement agency that receives an early evidence kit must label the early
82 evidence as such to differentiate between those collected by SANEs and those collected
83 by alleged victims. An investigating law enforcement agency that receives an early evidence kit
84 may: (i) submit the kit and all requested associated reference standards to a forensic laboratory
85 for analysis within 30 days of receipt of the kit and all requested associated reference standards;
86 and (ii) make use of certified sexual assault crisis programs or other qualified community-based
87 sexual assault victim service organizations that can provide services and support to survivors of
88 sexual assault.

89 (f) For the purpose of altering requirements for the storage and preservation of sexual
90 assault testing, preservation, and disposal of a sexual assault evidence collection kit, an
91 investigating law enforcement agency that receives a sexual assault evidence collection kit,
92 within 30 days after a request by the victim from whom the evidence was collected, shall provide
93 the victim with: (i) information about the status of the kit analysis; and (ii) all available results of
94 the kit analysis except results that would impede or compromise an ongoing investigation.

95 (g) In cases where testing results in a DNA profile, the crime laboratory shall enter the
96 full profile into CODIS and the state DNA database.

97 (h) Each sexual assault evidence kit shall be entered into the statewide sexual assault
98 evidence kit tracking system pursuant to section 18X of Chapter 6A.

99 SECTION 6. Section 214 of chapter 69 of the acts of 2018 is hereby amended by striking
100 out line XX after the words statute of limitations and inserting the following:-

101 An early evidence collection kit may be submitted to a forensic laboratory for analysis
102 unless: (i) there is clear evidence disproving the allegation of sexual assault; (ii) the facts alleged,
103 if true, could not be interpreted to violate a provision in sections 13B, 13B1/2, 13B3/4, 13F, 13H,

104 22, 22A, 22B, 22C, 23, 23A, 23B, 24 or section 24B of chapter 265 or section 3 of
105 chapter 272; (iii) the alleged victim from whom the evidence was collected declines to give
106 consent for analysis; or (iv) the suspect's profile has been collected for entry as a convicted
107 offender for a qualifying offense in the Combined DNA Index System (CODIS) maintained by
108 the Federal Bureau of Investigation and the suspect has pleaded guilty to the offense that led to
109 the sexual assault evidence collection kit's use. If a provision of subsection (i) of this section is
110 determined to be satisfied after the submission of the victim's sexual assault evidence collection
111 kit for analysis, testing may be terminated or not initiated. A forensic laboratory that receives an
112 early evidence collection kit and all requested associated reference standards for analysis may
113 determine suitability and complete screening, testing, and analysis in a timely manner.

114 SECTION 7. Section 215 of chapter 69 of the acts of 2018 is hereby amended by
115 inserting after subsection (b)(v) the following:-

116 (vi) remain anonymous and not file a criminal complaint and shall be informed that the
117 victim may file a criminal complaint at a future time.