



## 2023 SENATE BILL 37

February 3, 2023 - Introduced by Senators JAMES, BALLWEG, COWLES, QUINN, SPREITZER and TAYLOR, cosponsored by Representatives STEFFEN, ALLEN, ARMSTRONG, BROOKS, CABRERA, DONOVAN, GREEN, GUNDRUM, GUSTAFSON, KITCHENS, KNODL, MACCO, MOSES, MURPHY, MURSAU, NOVAK, O'CONNOR, PENTERMAN, RETTINGER, SUBECK, TITTL and TUSLER. Referred to Committee on Judiciary and Public Safety.

- 1     **AN ACT** *to consolidate, renumber and amend* 165.775 (4) (intro.) and (b); *to*  
2             *amend* 165.775 (3) (b) and 165.775 (4) (a); and *to create* 165.775 (4) (b) 2. and  
3             3. of the statutes; **relating to:** a time limit for processing sexual assault kits.

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### *Analysis by the Legislative Reference Bureau*

Current law contains procedures for the transmission, processing, and storage of sexual assault kits. Under current law, once the state crime laboratories takes possession of a sexual assault kit, it must do one of the following: 1) if it has received the kit of a person who has not consented to analysis, securely store the kit for a period of 10 years; or 2) if it has received the kit of a person who has consented to analysis, process the kit in accordance with Department of Justice procedures and then send the kit to a law enforcement agency for storage for a statutorily prescribed period of time.

This bill provides a specific timeline for the state crime laboratories to process sexual assault kits. The bill requires that the state crime laboratories begin processing a kit within five business days of receipt and complete processing it within 60 calendar days after beginning. The timeline applies only to the following sexual assault kits:

1. Kits of a person who has consented to analysis by reporting the sexual assault if the perpetrator of the sexual assault is unknown and there is a threat to public safety.
2. Kits containing evidence collected from a sexual assault examination performed as part of the investigation of a suspicious death.

**SENATE BILL 37**

3. Kits requested to be processed by persons who are authorized to request the state crime laboratories to conduct a criminal investigation. Under current law, this includes sheriffs, coroners, medical examiners, district attorneys, police chiefs, state prison wardens or superintendents, the attorney general, or the governor.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 165.775 (3) (b) of the statutes is amended to read:

2           165.775 (3) (b) Except as provided in par. (c), within 14 days after taking  
3 possession of the sexual assault kit, send the sexual assault kit to the state crime  
4 laboratories for processing in accordance with ~~the procedures specified in the rules~~  
5 ~~promulgated under sub. (6) within 14 days after taking possession of the sexual~~  
6 ~~assault kit sub. (4) (b).~~

7           **SECTION 2.** 165.775 (4) (intro.) and (b) of the statutes are consolidated,  
8 renumbered 165.775 (4) (b) (intro.) and amended to read:

9           165.775 (4) (b) (intro.) ~~If~~ Except as provided in par. (a), if the state crime  
10 laboratories takes possession of a sexual assault kit, ~~it shall do all of the following:~~  
11 ~~(b) If the state crime laboratories shall begin processing the kit in accordance with~~  
12 ~~the procedures specified in the rules promulgated under sub. (6). The state crime~~  
13 ~~laboratories shall begin processing the kit within 5 business days of taking~~  
14 ~~possession and shall complete processing the kit within 60 calendar days after the~~  
15 ~~processing has begun if any of the following applies:~~

16           1. The victim chooses to report the sexual assault to a Wisconsin law  
17 enforcement agency and thus has consented to, the identity of the person who  
18 perpetrated the sexual assault is unknown, and there is a threat to public safety. For  
19 purposes of this subsection, a victim's report to a law enforcement agency shall be

**SENATE BILL 37**

1 ~~considered consent for the analysis of his or her sexual assault kit, process the kit~~  
2 ~~in accordance with the procedures specified in the rules promulgated under sub. (6).~~

3 **SECTION 3.** 165.775 (4) (a) of the statutes is amended to read:

4 165.775 (4) (a) If the state crime laboratories takes possession of a sexual  
5 assault kit and the victim chooses not to report the sexual assault to a Wisconsin law  
6 enforcement agency ~~and thus has not consented to the analysis of his or her sexual~~  
7 ~~assault kit, ,~~ the state crime laboratories shall securely store the sexual assault kit  
8 for a period of 10 years, during which time the sexual assault victim may choose to  
9 report the assault to a Wisconsin law enforcement agency.

10 **SECTION 4.** 165.775 (4) (b) 2. and 3. of the statutes are created to read:

11 165.775 (4) (b) 2. The sexual assault kit contains evidence collected from a  
12 sexual assault forensic examination that was performed as part of an investigation  
13 of a death that involves unexplained, unusual, or suspicious circumstances, as  
14 determined by a law enforcement agency.

15 3. The sexual assault kit was requested to be processed as provided under s.  
16 165.75 (3) (b).

17 **SECTION 5. Effective date.**

18 (1) This act takes effect on the first day of the 7th month beginning after  
19 publication.

20 (END)