

FORENSICS/EVIDENCE

HB 3263: Statute of Limitation Extension for DNA

HB 3263 extends the statute of limitations indefinitely for certain crimes in cases where a defendant is identified on the basis of DNA sample comparisons (DNA sample was taken at the time of the offense and at a later point the offender is identified on the basis of that sample). The extension applies to rape in the first degree, sodomy in the first degree, unlawful sexual penetration in the first degree or sexual abuse in the first degree.

VITAL STATISTICS

Effective Date: January 1st, 2010
2009 ORS Site: Chapter 499



SB 310: Retention of Biological Evidence Requirement

SB 310 requires police agencies to preserve biological evidence in an amount that is sufficient to develop a DNA profile:

- that is collected as part of a criminal investigation into a covered offense (definition below)
- that reasonably may be used to incriminate or exculpate any person for a covered offense;
- that is in the possession of the custodian before any person is convicted of a covered offense

VITAL STATISTICS

Effective Date: June 24, 2009
2009 ORS Site: Chapter 489

The measure clarifies that a custodian is not required to preserve evidence solely because the physical evidence contains biological evidence if the physical evidence is of such a size, bulk or physical character as to render retention impracticable. When the retention of physical evidence is impracticable, the custodian is required to remove and preserve portions of the physical evidence likely to contain biological evidence in a quantity sufficient to permit future DNA testing before returning or disposing of the physical evidence.

SB 310 defines the following terms for purposes of the measure:

- “Biological evidence” as a sample of an individual’s blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids or other identifiable biological material or an item that contains such material, whether the material or item is stored or cataloged separately or the material is present upon other evidence. “Biological evidence” includes the contents of a sexual assault forensic evidence kit.
- “Convicted” includes a finding of guilty or responsible except for insanity, or a finding that a person is within the jurisdiction of the juvenile court under ORS 419C.005.
- “Covered offense” means: aggravated murder, murder, manslaughter in the first or second degree, criminally negligent homicide, aggravated vehicular homicide or a sex crime listed in ORS 181.594.
- “Custodian” means a law enforcement agency as defined in ORS 131.550 or any other person or public body as defined in ORS 174.109 that is charged with the collection, storage or retrieval of biological evidence in connection with a criminal investigation or criminal prosecution. “Custodian” does not include a court.

The provisions of HB 3263 sunset on January 2, 2012.

“SB 310 is designed to provide time for public safety stakeholders and other interested parties to develop a statewide policy regarding the retention of biological evidence.”