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HOUSE BILL NO. 640

INTRODUCED BY N. HASTINGS, K. SEEKINS-CROWE, D. BAUM

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE TESTING, STORAGE, AND DISPOSAL OF SEXUAL ASSAULT EVIDENCE KITS; REPEALING SECTION 7, CHAPTER 138, LAWS OF 2019; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Retention and disposal of sexual assault evidence kits -- victim

notification. (1) Sexual assault evidence kits reported to law enforcement pursuant to 46-15-404, anonymous sexual assault evidence kits collected as provided in 46-15-411, and the related contents of reported or anonymous sexual assault evidence kits must be stored in a secure and reasonable manner that preserves evidence for 75 years from the date of collection.

(2) A victim may request notification before the victim's sexual assault evidence kit and related contents are destroyed.

(3) If requested by the victim, the agency with custody of the victim's sexual assault evidence kit and its contents shall provide written notice to the victim 120 days before the intended destruction or disposal of the sexual assault evidence kit or its contents. The notification must include:

- (a) a description of the biological evidence;
- (b) a statement of the intended destruction or disposal of the biological evidence in 120 days;
- (c) the name, mailing address, and other contact information of the agency with custody of the evidence;
- (d) any other information the agency considers pertinent.

(4) If any party to the offense objects to the destruction or disposal of the biological evidence, the agency has the burden of proving by a preponderance of the evidence that the destruction or disposal of the biological evidence must take place.

1 NEW SECTION. **Section 2. Repealer.** Section 7, Chapter 138, Laws of 2019, is repealed.

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3 NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an
4 integral part of Title 46, chapter 15, part 4, and the provisions of Title 46, chapter 15, part 4, apply to [section 1].

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6 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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