

Arizona Revised Statutes Annotated [Currentness](#)

Title 13. Criminal Code ([Refs & Annos](#))

▢ [Chapter 38](#). Miscellaneous

▢ [Article 28](#). Retention and Preservation of Biological Evidence ([Refs & Annos](#))

→ **§ 13-4221. Preservation of biological evidence; retention period; definitions**

A. Notwithstanding any other law, the appropriate governmental entity shall retain all identified biological evidence that is secured in connection with a felony sexual offense or homicide for:

1. The period of time that a person who was convicted of a felony sexual offense or homicide remains incarcerated for that offense or until the completion of the person's supervised release.

2. A cold case, fifty-five years or until a person is convicted of the crime and remains incarcerated or under supervised release for that offense.

B. The governmental entity shall preserve the evidence for the period of time prescribed in subsection A of this section in a condition that is suitable for deoxyribonucleic acid testing.

C. Evidence retained pursuant to this section shall be made available for deoxyribonucleic acid testing pursuant to [§ 13-4240](#).

D. The government entity that investigates the crime may establish procedures for retaining probative samples of the biological evidence and disposing of bulk evidence that do not affect the suitability of the probative sample for deoxyribonucleic acid testing. The government entity responsible for retaining the samples shall obtain approval from the county attorney or attorney general before disposal of any bulk evidence. Before the disposal of any bulk evidence, reasonable efforts shall be made to provide written notice to the victim.

E. This section does not preclude a governmental entity from disposing of evidence in a case in which a conviction has been obtained after the expiration of the defendant's sentence. Under any other circumstance, the governmental entity may dispose of physical evidence after the conclusion of the convicted defendant's direct appeal and first postconviction relief proceeding or after the time for initiating the direct appeal and first postconviction relief proceeding has expired, with the agreement of the county attorney or the attorney general and then, upon written notice to the defendant, any counsel of record and the victim if no other law requires that biological evidence be preserved or retained.

F. This section does not limit a governmental entity's discretion concerning the conditions under which biological evidence is retained, preserved or transferred among different entities if the evidence is retained in a condition

that is suitable for deoxyribonucleic acid testing.

G. For the purposes of this section:

1. “Biological evidence” includes a sexual assault forensic examination kit, semen, blood, saliva, hair, skin tissue or other identified biological material.

2. “Cold case” means a homicide or a felony sexual offense that remains unsolved for one year or more after being reported to a law enforcement agency and that has no viable and unexplored investigatory leads.

CREDIT(S)

Added by [Laws 2008, Ch. 282, § 3, eff. Jan. 1, 2009](#).

Current through the Second Regular Session and Eighth Special Session of the Forty-Ninth Legislature (2010).

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