

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



GOV. MSG. NO. 1251

EXECUTIVE CHAMBERS  
KE KE'ENA O KE KIA'ĀINA

June 25, 2026

The Honorable Ronald D. Kouchi  
President of the Senate,  
and Members of the Senate  
Thirty-Third State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Nadine K. Nakamura  
Speaker, and Members of the  
House of Representatives  
Thirty-Third State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Aloha President Kouchi, Speaker Nakamura, and Members of the Legislature:

This is to inform you that on June 25, 2026, the following bill was signed into law:

S.B. NO. 3073, S.D. 1, H.D. 1,  
C.D. 1

RELATING TO THE RETENTION OF BIOLOGICAL  
EVIDENCE.  
**ACT 150**

Mahalo,

A handwritten signature in black ink that reads "Josh Green M.D." in a cursive style.

Josh Green, M.D.  
Governor, State of Hawai'i

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# A BILL FOR AN ACT

RELATING TO THE RETENTION OF BIOLOGICAL EVIDENCE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that section 844D-126,  
2 Hawaii Revised Statutes, appears to require all evidence  
3 custodians in all post-conviction cases to retain all evidence  
4 that "may" contain biological evidence. As a result, evidence  
5 must be retained in all felony, misdemeanor, petty misdemeanor,  
6 and violation cases resulting in conviction, even when the  
7 actual presence of biological evidence is extremely unlikely;  
8 even when that evidence would have been irrelevant to the  
9 identification of the perpetrator; and even when the identity of  
10 the perpetrator was not at issue.

11           The legislature further finds that this broad evidence  
12 retention requirement has caused storage problems statewide.  
13 Reasonable guidelines and limitations for the post-conviction  
14 retention of biological evidence by law enforcement agencies and  
15 the courts are needed, as well as a clear procedure that allows  
16 defendants to object to the proposed disposal of biological  
17 evidence.



1           The purpose of this Act is to establish a more practical  
2 and balanced framework for post-conviction evidence retention  
3 by:

4           (1) Limiting mandatory post-conviction evidence retention  
5 to certain serious felony offenses in which the  
6 identity of the perpetrator was a contested issue and  
7 the evidence could reasonably be determined to contain  
8 biological material that could be used for DNA  
9 analysis to identify or exclude the defendant as the  
10 perpetrator;

11           (2) Allowing the disposal of evidence, upon court  
12 approval, before the exhaustion of all appeals or  
13 completion of a sentence in cases in which the  
14 identity of the perpetrator was not a contested issue  
15 or the evidence does not contain biological material  
16 that could reasonably be used for DNA analysis to  
17 identify or exclude the defendant as the perpetrator;

18           (3) Providing defendants with an opportunity to object to  
19 the proposed disposal of evidence; and

20           (4) Authorizing the court, upon motion of a defendant or  
21 prosecutor or on the court's own motion, to order the



1 retention of biological evidence in felony cases for a  
2 certain period under specified circumstances.

3 SECTION 2. Section 844D-1, Hawaii Revised Statutes, is  
4 amended by adding a new definition to be appropriately inserted  
5 and to read as follows:

6 "Contested issue in the case" means, as reflected in the  
7 record, the defendant affirmatively disputed being the  
8 perpetrator of the charged offense by raising or relying on  
9 misidentification, alibi, mistaken identity, third-party  
10 perpetrator, or similar theory, or by otherwise placing the  
11 perpetrator's identity in issue through motion, argument, cross-  
12 examination, evidence, or proffer."

13 SECTION 3. Section 844D-121, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 **"§844D-121 Petition for post-conviction DNA testing.**  
16 Notwithstanding any other law or rule of court governing post-  
17 conviction relief to the contrary, a person who was convicted of  
18 and sentenced for a crime, or acquitted of a crime on the ground  
19 of physical or mental disease, disorder, or defect excluding  
20 responsibility, may file a motion, at any time, for DNA analysis  
21 of any evidence that:



1 (1) Is in the custody or control of a [~~police department,~~]  
2 law enforcement agency, prosecuting [attorney,  
3 agency, laboratory, or court[+], consistent with  
4 section 844D-126;

5 (2) Is related to the investigation or prosecution that  
6 resulted in the judgment of conviction or of acquittal  
7 of a crime on the ground of physical or mental  
8 disease, disorder, or defect excluding responsibility;  
9 and

10 (3) [~~May contain~~] Contains biological evidence[-] that  
11 could reasonably be used for DNA analysis to:  
12 (A) Establish the identity of the person who  
13 committed the offense that resulted in the  
14 judgment of conviction; or  
15 (B) Exclude a person from the group of persons who  
16 could have committed the offense that resulted in  
17 the judgment of conviction."

18 SECTION 4. Section 844D-126, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "[+]§844D-126[+] **Retention of biological evidence.** (a)  
21 [~~All~~] Any evidence in the custody or control of an evidence



1 custodian, including a [~~police department,~~] law enforcement  
2 agency, prosecuting [~~attorney,~~] agency, laboratory, or court  
3 [~~that~~], shall be retained if:

4 (1) The identity of the defendant, as the perpetrator of  
5 the offense that resulted in the judgment of  
6 conviction, was a contested issue in the case;

7 (2) The evidence is related to the investigation or  
8 prosecution of a case in which there has been a  
9 judgment of conviction [~~and that may~~] for:

10 (A) Murder;

11 (B) Manslaughter;

12 (C) Kidnapping;

13 (D) Sexual assault in the first degree;

14 (E) Sexual assault in the second degree;

15 (F) Assault in the first degree; or

16 (G) An attempt or criminal conspiracy to commit any  
17 of the offenses set forth in this paragraph; and

18 (3) The evidence could reasonably be determined to contain  
19 biological evidence that could be used for DNA  
20 analysis to:



- 1           (A) Establish the identity of the person who
- 2           committed the offense that resulted in the
- 3           judgment of conviction; or
- 4           (B) Exclude a person from the group of persons who
- 5           could have committed the offense that resulted in
- 6           the judgment of conviction.

7           (b) The evidence retained pursuant to subsection (a) shall  
8 be retained at least until the later occurring of either:

- 9           (1) The exhaustion of all appeals of the case to which the
- 10           evidence is related; or
- 11           (2) The completion of any sentence, including any term of
- 12           probation or parole, imposed on the defendant in the
- 13           case to which the evidence relates.

14           ~~[(b) The attorney general shall establish procedures and~~  
15 ~~protocols, which shall be uniform throughout the State, for the~~  
16 ~~collection and preservation of evidence retained pursuant to~~  
17 ~~this section.]~~

18           (c) The evidence custodian may dispose of evidence  
19 retained pursuant to subsection (a) before the expiration of the  
20 time period specified in subsection (b) if:



1       (1) The court, pursuant to subsection (g), grants a motion  
2       for disposal of evidence filed by the prosecuting  
3       agency before sentencing and scheduled to be heard by  
4       the court immediately after sentencing or as soon  
5       thereafter as practicable; provided that the motion  
6       for disposal shall include a description of the  
7       evidence proposed for disposal; or

8       (2) The prosecuting agency or evidence custodian files  
9       with the court a notification of proposed disposal of  
10       evidence consistent with this section, and either:

11       (A) The defendant does not file a statement of  
12       objection pursuant to subsection (f); or

13       (B) If the defendant files a statement of objection  
14       pursuant to subsection (f), the court, after a  
15       hearing on the objection, allows disposal of the  
16       evidence pursuant to subsection (g).

17       (d) If a notification of proposed disposal of the evidence  
18       is filed, a copy shall be served upon:

19       (1) The defendant against whom the judgment of conviction  
20       was entered, by personal service or, after a  
21       reasonable and documented good faith attempt for



1           personal service was made, by first-class mail to the  
2           defendant's last known address;

3           (2) The defendant's parole or probation officer, if  
4           service cannot be made upon the defendant by personal  
5           service and the defendant remains under parole or  
6           probation supervision;

7           (3) The defendant's attorney of record, if applicable;

8           (4) The prosecuting agency, if that agency did not file  
9           the notification; and

10          (5) The evidence custodian, if the evidence custodian did  
11          not file the notification.

12          (e) The notification of proposed disposal of the evidence  
13 shall include:

14          (1) A description of the evidence proposed for disposal;  
15               and

16          (2) Notice that the evidence custodian may dispose of the  
17          evidence before the expiration of the time period  
18          specified in subsection (b) unless, within ninety days  
19          of service of the notification, the defendant files a  
20          written statement of objection with the court and



1 serves the statement of objection on the prosecuting  
2 agency and the evidence custodian.

3 (f) If, within ninety days of service of the notification  
4 of proposed disposal of the evidence on the defendant, the  
5 defendant's parole or probation officer, or the defendant's  
6 attorney of record, whichever service is completed last, the  
7 defendant files a written statement of objection with the court  
8 and serves the statement of objection on the prosecuting agency  
9 and the evidence custodian, the court shall schedule a hearing  
10 on the objection and provide notice of the hearing to the  
11 prosecuting agency and the evidence custodian.

12 (g) If, after a hearing on a motion for disposal of  
13 evidence or a hearing on the objection to a notification of  
14 proposed disposal of the evidence, the court determines by a  
15 preponderance of the evidence that:

16 (1) The identity of the defendant, as the perpetrator of  
17 the offense that resulted in the judgment of  
18 conviction, was not a contested issue in the case; or

19 (2) The evidence does not contain biological evidence that  
20 could reasonably be used for DNA analysis to:



1           (A) Establish the identity of the person who  
2           committed the offense for which the defendant was  
3           convicted; or

4           (B) Exclude a person from the group of persons who  
5           could have committed the offense for which the  
6           defendant was convicted,

7 the court may allow the evidence custodian to dispose of the  
8 evidence.

9           (h) Notwithstanding any other provision of this chapter,  
10 upon the motion of a defendant or prosecutor or on the court's  
11 own motion, the court may order retention of biological evidence  
12 in any felony case for the period otherwise required under this  
13 chapter if the court finds, based on the record, that:

14           (1) Biological evidence exists or was collected in the  
15           case; and

16           (2) Biological evidence could reasonably be material to  
17           establishing or disproving the identity of the  
18           perpetrator.

19           (i) For the purposes of this section, "biological  
20 evidence" means an individual's blood, semen, hair, saliva, skin  
21 tissue, fingernail scrapings, teeth, bone, bodily fluids, or



1 other identifiable biological material, including the contents  
2 of a sexual assault examination kit."

3 SECTION 5. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

6 SECTION 6. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 7. This Act shall take effect on September 1,  
9 2026.



S.B. NO. 3073  
S.D. 1  
H.D. 1  
C.D. 1

APPROVED this 25th day of June , 2026

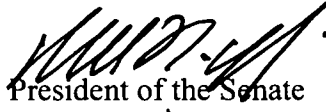


GOVERNOR OF THE STATE OF HAWAII

**THE SENATE OF THE STATE OF HAWAI'I**

Date: May 1, 2026  
Honolulu, Hawai'i 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-Third Legislature of the State of Hawai'i, Regular Session of 2026.



President of the Senate



Clerk of the Senate

SB No. 3073, SD 1, HD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 6, 2026  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-Third Legislature of the State of Hawaii, Regular Session of 2026.



Nadine K. Nakamura  
Speaker  
House of Representatives



Brian L. Takeshita  
Chief Clerk  
House of Representatives