

REFERENCE TITLE: biological evidence; retention; preservation

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1412

Introduced by
Senators Huppenthal, Allen: Gray L, Johnson

AN ACT

CHANGING THE DESIGNATION OF TITLE 13, CHAPTER 38, ARTICLE 28, ARIZONA REVISED STATUTES, TO "RETENTION AND PRESERVATION OF BIOLOGICAL EVIDENCE; AMENDING TITLE 13, CHAPTER 38, ARTICLE 28, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-4221; RELATING TO THE RETENTION AND PRESERVATION OF BIOLOGICAL EVIDENCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Heading change

3 The article heading of title 13, chapter 38, article 28, Arizona
4 Revised Statutes, is changed from "ARSON REWARD FUND" to "RETENTION AND
5 PRESERVATION OF BIOLOGICAL EVIDENCE".

6 Sec. 2. Title 13, chapter 38, article 28, Arizona Revised Statutes, is
7 amended by adding section 13-4221, to read:

8 13-4221. Preservation of biological evidence; retention period;
9 definitions

10 A. NOTWITHSTANDING ANY OTHER LAW, THE APPROPRIATE GOVERNMENTAL ENTITY
11 SHALL RETAIN, SUBJECT TO A CONTINUOUS CHAIN OF CUSTODY, ALL IDENTIFIED
12 BIOLOGICAL EVIDENCE THAT IS SECURED IN CONNECTION WITH A FELONY SEXUAL
13 OFFENSE OR HOMICIDE FOR:

14 1. THE PERIOD OF TIME THAT A PERSON WHO WAS CONVICTED OF A FELONY
15 SEXUAL OFFENSE OR HOMICIDE REMAINS INCARCERATED FOR THAT OFFENSE OR UNTIL THE
16 COMPLETION OF THE PERSON'S SUPERVISED RELEASE.

17 2. A COLD CASE, FIFTY-FIVE YEARS OR UNTIL A PERSON IS CONVICTED OF THE
18 CRIME AND REMAINS INCARCERATED OR UNDER SUPERVISED RELEASE FOR THAT OFFENSE.

19 B. THE GOVERNMENTAL ENTITY SHALL PRESERVE THE EVIDENCE FOR THE PERIOD
20 OF TIME PRESCRIBED IN SUBSECTION A OF THIS SECTION IN A CONDITION THAT IS
21 SUITABLE FOR DEOXYRIBONUCLEIC ACID TESTING.

22 C. EVIDENCE RETAINED PURSUANT TO THIS SECTION SHALL BE MADE AVAILABLE
23 FOR DEOXYRIBONUCLEIC ACID TESTING PURSUANT TO SECTION 13-4240.

24 D. THIS SECTION DOES NOT LIMIT A GOVERNMENTAL ENTITY'S DISCRETION
25 CONCERNING THE CONDITIONS UNDER WHICH BIOLOGICAL EVIDENCE IS RETAINED,
26 PRESERVED OR TRANSFERRED AMONG DIFFERENT ENTITIES IF THE EVIDENCE IS RETAINED
27 IN A CONDITION THAT IS SUITABLE FOR DEOXYRIBONUCLEIC ACID TESTING AND HAS
28 BEEN SUBJECT TO A CONTINUOUS CHAIN OF CUSTODY.

29 E. FOR THE PURPOSES OF THIS SECTION:

30 1. "BIOLOGICAL EVIDENCE" INCLUDES A SEXUAL ASSAULT FORENSIC
31 EXAMINATION KIT, SEMEN, BLOOD, SALIVA, HAIR, SKIN TISSUE OR OTHER IDENTIFIED
32 BIOLOGICAL MATERIAL.

33 2. "COLD CASE" MEANS A HOMICIDE THAT REMAINS UNSOLVED FOR ONE YEAR OR
34 MORE AFTER BEING REPORTED TO A LAW ENFORCEMENT AGENCY AND THAT HAS NO VIABLE
35 AND UNEXPLORED INVESTIGATORY LEADS.