



The New England Innocence Project

DNA EVIDENCE PRESERVATION LAWS FOR THE UNITED STATES AND THE DISTRICT OF COLUMBIA

Fourteen states, including Massachusetts, do not have preservation of evidence laws. Oklahoma adopted preservation of evidence laws in 2001.

State	Year Effective	Description of Law	Citation
Alabama	Preservation of Evidence Law: NONE	n/a	n/a
Alaska	Preservation of Evidence Law: 2010	Evidence collected in relation to an investigation or prosecution for certain crimes must be preserved while a case remains unsolved or for 50 years, whichever comes first. In cases where there is enough biological evidence to create a DNA profile and an individual was convicted or adjudicated as a delinquent for certain crimes, evidence will be preserved. The law contains provisions for destroying evidence after notifying the convicted individual.	Alaska Stat. §12.36.200 Amended by SB 110
Arizona	Preservation of Evidence Law: 2009	Biological evidence collected in a felony sexual assault or homicide case will be preserved while a convicted individual is incarcerated until his or her supervised release. In a cold case, evidence will be preserved for 55 years or until someone is convicted and subsequently is incarcerated.	Ariz. Rev. Stat. Ann. § 13-4221

Arkansas	Preservation of Evidence Law: 2001	In a prosecution for either a sex offense or a violent offense, the state shall preserve all physical evidence. Following a conviction, evidence will be preserved indefinitely for a violent offense, for 25 years for a sex offense, and for seven years for any other felony where the evidence can be tested for DNA and used in an unsolved crimes database.	A.C.A. § 12-12-104
California	Preservation of Evidence Law: 2000 (Amended most recently: 2002)	Biological evidence in the case of a convicted individual will be preserved for the duration of his or her incarceration. The law contains provisions for destruction of evidence after a notice period.	Cal. Penal Code §1417.9
Colorado	Preservation of Evidence Law: 2009	When DNA evidence has been collected in a criminal felony case where no charges have been filed, the evidence will be preserved for the statute of limitations for the felony. If a person has been convicted of certain crimes, the state will preserve evidence for the life of the convicted individual.	Colo. Rev. Stat . §18- 1-1101 through 1108
Connecticut	Preservation of Evidence Law: 2003	When an individual is convicted of a felony, convicted of a crime after trial, or if the court shows good cause, all biological evidence collected must be preserved while the individual remains incarcerated for that particular crime.	C.G.S.A. § 54-102jj
Delaware	Preservation of Evidence Law: NONE	n/a	n/a
District of Columbia	Preservation of Evidence Law: 2002	Biological evidence collected in a case where an individual is convicted of a violent crime (or adjudicated as a delinquent) will be preserved for five years or as long as the person remains in	DC ST § 22-4134

		prison, whichever is longer.	
Florida	Evidence Preservation Law: 2001 (Amended most recently: 2006)	The state will preserve physical evidence on which a convicted individual may request DNA testing. Evidence may be discarded after the individual's sentence has expired except when the death penalty has been carried out; in that case, evidence must be preserved for 60 days after the execution of the sentence.	West's F.S.A. § 925.11
Georgia	Evidence Preservation Law: 2003 (Amended: 2008)	Evidence collected in connection with a criminal case, including stains, fluids, or hair samples that relate to the perpetrator's identity, will be preserved. When the death penalty is carried out, evidence may be destroyed following execution of the sentence. For serious violent felonies, biological evidence will be preserved for either ten years after the final judgment or ten years after May 27, 2003, whichever is later. For other felonies and misdemeanors, evidence can be destroyed.	Ga. Code Ann. 17-5-56
Hawaii	Preservation of Evidence Law: 2005	All biological evidence collected from a crime scene and related to a case where there has been a conviction will be preserved until either all appeals have been exhausted or the completion of the sentence (including parole or probation), whichever is later.	Hawaii Rev. Stat. §844D-126
Idaho	Preservation of Evidence Law: NONE	n/a	n/a
Illinois	Preservation of Evidence Law: 2001	Physical evidence will be preserved indefinitely when an individual is sentenced to death. For certain other crimes, evidence will be preserved until the	Ill. Rev. Stat. Ch. 725, §5/116-4

		sentence is completed or for seven years if the suspect's DNA can be entered into a database to test for unsolved crimes.	
Indiana	Preservation of Evidence Law: 2001	n/a	
Iowa	Evidence Preservation Law: 2005	Either a criminal or juvenile justice agency will maintain DNA evidence for three years after the expiration of the statute of limitations on the crime.	Iowa Code §8 1.10
Kansas	Preservation of Evidence Law: NONE	n/a	n/a
Kentucky	Evidence Preservation Law: 2002 (Amended: 2005)	Biological evidence recovered in a criminal case will be preserved for the duration of the convicted individual's term of incarceration in connection with the case.	KRS § 524.140
Louisiana	Evidence Preservation Law: 2001 (Amended most recently: 2008)	After a convicted individual applies for DNA testing, all biological evidence related to the case must be preserved until the case is resolved in court. In cases with either a guilty verdict or guilty plea before August 15, 2001, after an application for testing has been filed, the biological evidence must be preserved until August 31, 2014. In cases where a death sentence was issued before the act was passed, all biological material will be preserved until the sentence is carried out.	L.S.A-C.Cr.P. Art. 926.1
Maine	Evidence Preservation Law: 2006	Effective October 15, 2001, all biological evidence on which an individual may request DNA testing will be preserved for the duration of that person's	15 M.R.S.A. § 2138

		incarceration in connection with the case.	
Maryland	Evidence Preservation Law: 2001 (Amended most recently: 2008)	If scientific evidence known to contain DNA is collected and a convicted person may request testing on that evidence, the state will preserve the evidence for the length of time that the person is incarcerated in connection with the case.	MD Code, Criminal Procedure § 8-201
Massachusetts	Preservation of Evidence Law: NONE	n/a	n/a
Michigan	Evidence Preservation Law: 2001 (Amended most recently: 2009)	Effective January 1, 2001, the investigating agency will maintain any biological evidence on which a convicted individual may request DNA testing for the duration of that individual's sentence in connection with the case.	M.C.L.A. 770.16
Minnesota	Evidence Preservation Law: 2005	Biological evidence secured in connection with a criminal case and used to convict an individual will be preserved for the duration of that individual's sentence.	Min n. Stat. §590.10
Mississippi	Evidence Preservation Law: 2009	When a crime is investigated and biological evidence is collected, the evidence will be preserved while the case remains unsolved or for the entirety of a convicted person's sentence. Beginning July 1, 2009, any evidence collected in a murder, manslaughter, or felony sexual assault case, whether biological or not, will be preserved while the case remains unsolved or for the entirety of a convicted person's sentence.	Miss. Code Ann. § 99-49-1

Missouri	Evidence Preservation Law: 2001 (Amended: 2006)	Evidence that can be tested for DNA and that contributed to a conviction for a felony must be preserved.	Mo. Rev. Stat. §650.056
Montana	Preservation of Evidence Law: 2003 (Amended: 2009)	Biological evidence collected in a case that led to conviction for a felony offense must be preserved for at least three years after the conviction becomes final. This minimum time frame for preservation can be extended by a court order issued within three years of the final conviction.	Mont. Code. Ann . §46-2 1-111
Nebraska	Preservation of Evidence Law: 2001 (Amended most recently: 2007)	Biological evidence collected in connection with a criminal case must be preserved for the duration of a person's incarceration.	Neb. Rev. Stat. §29-4120
Nevada	Preservation of Evidence Law: 2009	Biological evidence collected and used in a class A or B felony conviction will be preserved for the duration of the convicted individual's sentence.	Nev. Rev. Stat. § 176.09 18
New Hampshire	Evidence Preservation Law: 2004	Biological evidence collected in either a criminal or delinquency investigation shall be preserved for five years from the date of conviction or for the length of the convicted individual's incarceration, whichever is longer.	N.H. Rev. Stat. § 651-D:3
New Jersey	Preservation of Evidence Law: NONE	n/a	n/a
New Mexico	Preservation of Evidence Law: 2003 (Amended: 2005)	The state will preserve evidence that could be subject to DNA testing for the length of a convicted individual's sentence.	N.M. Stat. Ann. §3 1-1A-2

New York	Preservation of Evidence Law: NONE	n/a	n/a
North Carolina	Evidence Preservation Law: 2001 (Amended most recently: 2009)	Biological evidence collected in a criminal case shall be preserved. For a death sentence, evidence will be preserved until the sentence is carried out. For a life without parole sentence, evidence will be preserved until the convicted individual's death. For Class B1-E felonies, including homicide, sex offenses, assault, kidnapping, burglary, robbery, and arson or burning, evidence should be preserved for the length of the individual's incarceration and mandatory supervised release; in cases where the person pled guilty, evidence shall be preserved for three years from the date of conviction or until released, whichever is earlier. In unsolved cases of homicide or rape, the evidence will be preserved as long as the case remains open.	N.C.G.S.A. § 15A-268
North Dakota	Preservation of Evidence Law: NONE	n/a	n/a
Ohio	Evidence Preservation Law: 2010	The government agency that collected biological evidence in connection with certain crimes will preserve the evidence for a specified period of time. In cases of homicide or aggravated murder, the evidence will be preserved for the length of time that the crime remains unsolved. For voluntary manslaughter, involuntary manslaughter, aggravated vehicular homicide that is a felony of the 1 st or 2 nd degree, sexual battery, rape, or gross sexual imposition on a child under 13	Task Force - OH ST 109.561 Evidence Preservation - OH ST 2933.82

		years of age, the evidence will be preserved for 30 years if the crime remains unsolved. In the case of a conviction or guilty plea, the evidence will be preserved for the earlier of either 30 years, or until the defendant has been unconditionally discharged. If the individual is still incarcerated after the 30 years is up, the evidence will be preserved until the release date or the individual's death.	
Oklahoma	Preservation of Evidence Law: 2001	The state will preserve biological evidence collected in connection with a violent felony offense charge for the entirety of the individual's incarceration.	22 Okl.St. Ann. § 1372
Oregon	Preservation of Evidence Law: 2009	Biological evidence collected in the course of a criminal investigation or evidence maintained by a custodian before an individual was convicted and that could incriminate or exonerate the individual is to be preserved. This evidence will be preserved until all defendants in the crime have completed their sentences, an individual convicted of a sex crime no longer needs to report as an offender, an individual convicted of murder or aggravated murder dies, or the investigating agency decides to close the case for reasons other than conviction.	SB 310
Pennsylvania	Preservation of Evidence Law: NONE	n/a	n/a
Rhode Island	Evidence Preservation Law: 2002	All biological evidence collected during a criminal investigation will be preserved for the duration of the individual's incarceration.	Gen.Laws 1956, § 10-9.1-11

South Carolina	Preservation of Evidence Law: 2008	Evidence will be preserved for a variety of offenses until the convicted individual is released, dies while in prison, or is executed through the death penalty. However, if the conviction was based on a guilty or nolo contendere plea, the physical and biological evidence will be preserved for seven years from the conviction, or until the individual is released, dies while incarcerated, or is executed through the death penalty for the crime, whichever happens first.	SC Code of Laws § 17-28-300.
South Dakota	Preservation of Evidence Law: NONE	n/a	n/a
Tennessee	Preservation of Evidence Law: NONE	n/a	Tenn.Code.Ann. §§40-30-309
Texas	Preservation of Evidence Law: 2001 (Amended: 2009)	In criminal cases resulting in a conviction, biological evidence will be preserved. For individuals serving time for a capital felony, evidence will be preserved until the person is executed, dies in prison, or is released on parole. For individuals sentenced to terms of confinement or imprisonment, evidence will be preserved until the individual dies, completes the sentence, or is released on parole or mandatory supervision.	Vernon's Ann.Texas C.C.P. Art. 38.43

Utah	Preservation of Evidence Law: NONE	n/a	n/a
Vermont	Preservation of Evidence Law: NONE	n/a	n/a
Virginia	Evidence Preservation Law: 2001 (Amended most recently: 2005)	In felony cases where the defendant was not sentenced to death, if the defendant files a motion that is granted, biological evidence shall be preserved for up to 15 years or longer at the court's discretion. If the defendant has been sentenced to death, the evidence must be transferred to the Department of Forensic Sciences and maintained until the sentence is carried out. If the death sentence is later reduced, the evidence will be returned to the original investigating agency for storage.	Va. Code Ann. § 19.2-270.4:1
Washington	Preservation of Evidence Law: 2005	In felony cases, the sentencing court may order biological evidence preserved for a specified length of time.	West's RCWA 10.73.170
West Virginia	Preservation of Evidence Law: NONE	n/a	n/a
Wisconsin	Preservation of Evidence Law: 2005	Biological evidence obtained during the course of a criminal investigation resulting in a conviction, delinquency adjudication, or commitment will be preserved until all individuals in custody have reached their release date.	W.S.A. 165.81
Wyoming	Preservation of Evidence Law: NONE	n/a	n/a

