

Comprehensive NFK Legislation Summary for Health Care Providers

The trace evidence collection legislation (Virginia Code § 19.2-11.5 through 19.2-11.12) is designed to ensure the consistent handling of NFKs collected from strangulation victims across Virginia. Health care providers, defined under the legislation as “any hospital, clinic, or other medical facility that provides forensic medical examinations to victims of strangulation”, have the following responsibilities under the legislation.

Health Care Provider Responsibilities for NFKs with Victim Reporting Offense

A. Notify Law Enforcement Forthwith Once NFK Collected

If the victim elects to report the sexual assault to law enforcement at the time the NFK is collected, the health care provider is required to immediately notify the investigating law enforcement agency when the kit has been collected, and the law enforcement agency is required to take possession of the kit as quickly as possible after notification.

Health Care Provider Responsibilities for Anonymous NFKs

Anonymous NFKs are kits collected from victims of strangulation who elect not to make a report of the offense to law enforcement at the time of their examination.

A. Provide Information to Victim

1. At the time of the exam, health care providers shall complete and have the victim sign the Anonymous Neck & Fingernails Kit Storage Notification Form (62832). Health care providers shall provide the victim with a copy of the fully executed Anonymous Neck & Fingernails Kit Storage Notification Form (62832).
2. Health care providers shall inform the victim of the following:
 - a. The Anonymous NFK will be forwarded to the Division of Consolidated Laboratory Services (DCLS) for storage for a minimum period of two (2) years from receipt.
 - b. The victim can have their NFK released to law enforcement at a later date.
 - c. The victim can object to the destruction of their NFK by contacting DCLS to request their PERK be held for an additional ten (10) years before the end of the initial two (2) year storage period.
 - d. Unless DCLS is contacted by law enforcement or the victim, DCLS may destroy their NFK after the two (2) year storage period.

**** The Anonymous Neck & Fingernails Kit Storage Notification Form (62832) is available on the DCLS website at: <https://dgs.virginia.gov/dcls/NFK>**

B. Forward Anonymous NFKs to DCLS

All Anonymous NFKs must be forwarded by the health care provider to the Division of Consolidated Laboratory Services (DCLS) for storage. If the victim makes a report to law enforcement, DCLS is required to release the NFK to the law enforcement agency.

**** The Anonymous NFK Submission Instructions (62830) are available on the DCLS website at: <https://dgs.virginia.gov/dcls/NFK>**