

RCW 9A.44.026 Depiction of victim created during forensic examination—Sealing and destruction of exhibit. (1) Whenever a depiction of a victim or a victim's genitals that was created during a sexual assault medical forensic examination, regardless of its format, is marked as an exhibit in a criminal proceeding, the prosecutor shall seek an order sealing the exhibit at the close of the trial. Any exhibits sealed under this section shall be sealed with evidence tape in a manner that prevents access to, or viewing of, the depiction of a victim or a victim's genitals that was created during a sexual assault medical forensic examination and shall be labeled so as to identify its contents. Anyone seeking to view such an exhibit must obtain permission from the superior court after providing at least 10 days' notice to the prosecuting attorney. Appellate attorneys for the defendant and the state shall be given access to the exhibit, which must remain in the care and custody of either a law enforcement agency or the court. Any other person moving to view such an exhibit must demonstrate to the court that the person's reason for viewing the exhibit is of sufficient importance to justify another violation of the victim's privacy.

(2) Whenever the clerk of the court receives an exhibit of a depiction of a victim or a victim's genitals that was created during a sexual assault medical forensic examination, the clerk shall store the exhibit in a secure location, such as a safe. The clerk may arrange for the transfer of such exhibits to a law enforcement agency evidence room for safekeeping provided the agency agrees not to destroy or dispose of the exhibits without an order of the court.

(3) If the criminal proceeding ends in a conviction, the clerk of the court shall destroy any exhibit containing a depiction of a victim or a victim's genitals that was created during a sexual assault medical forensic examination five years after the judgment is final, as determined by the provisions of RCW 10.73.090(3). Before any destruction, the clerk shall contact the prosecuting attorney and verify that there is no collateral attack on the judgment pending in any court. If the criminal proceeding ends in a mistrial, the clerk shall either maintain the exhibit or return it to the law enforcement agency that investigated the criminal charges for safekeeping until the matter is set for retrial. If the criminal proceeding ends in an acquittal, the clerk shall return the exhibit to the law enforcement agency that investigated the criminal charges for either safekeeping or destruction. [2024 c 297 s 15.]

Effective date—2024 c 297: See note following RCW 7.68.127.