

SHB 1109 - H AMD 138

By Representative Orwall

ADOPTED 02/25/2021

1 On page 1, beginning on line 7, after "(1)" strike all material
2 through "thereafter" on page 2, line 6 and insert "Subject to the
3 availability of amounts appropriated for this specific purpose, the
4 association must, in consultation with the office of the attorney
5 general, collect information on the investigational status of any
6 sexual assault case where the sexual assault kit was in the possession
7 of the law enforcement agency and a request for forensic examination
8 had not been submitted by the law enforcement agency to the Washington
9 state patrol crime laboratory as of July 24, 2015. The association
10 must work with law enforcement agencies to update the investigational
11 status of each open case not less than semiannually. Beginning in
12 2022, the association must submit reports on the information collected
13 pursuant to this section to the governor and appropriate committees of
14 the legislature by January 1st and July 1st of each year.

15 (2) For the purposes of this section:

16 (a) "Association" means the Washington association of sheriffs and
17 police chiefs.

18 (b) "Investigational status" means:

19 (i) The agency case or incident number;

20 (ii) The date the request for forensic examination of the sexual
21 assault kit was submitted to the Washington state patrol crime
22 laboratory;

23 (iii) The date the forensic examination was complete and reported
24 to the law enforcement agency;

25 (iv) Whether the case is open or closed;

26 (v) For open cases, whether the case remains:

27 (A) An active investigation;

- 1 (B) Open pending forensic examination results; or
2 (C) Open and inactive, in which case the agency must include a
3 brief description as to why the case is inactive; and
4 (vi) For closed cases, whether the case was closed as a result of:
5 (A) A referral for prosecution where charges were filed or the
6 prosecutor is reviewing the case;
7 (B) A referral for prosecution where the prosecutor declined to
8 file charges based on the case being legally insufficient;
9 (C) A referral for prosecution where the prosecutor declined to
10 files charges because the case failed to meet prosecutorial charging
11 standards;
12 (D) After reviewing the results of the forensic examination, there
13 was no evidence that a crime occurred, or there was lack of probable
14 cause that a crime occurred;
15 (E) The inability to locate the victim or lack of victim
16 participation; or
17 (F) Any other reason, in which case the agency must include a
18 brief description as to why the case closed.

19 (3) Nothing in this section may be interpreted to require any law
20 enforcement agency to disclose any information that would jeopardize
21 an active criminal investigation.

22
23 NEW SECTION. Sec. 2. A new section is added to chapter 5.70 RCW
24 to read as follows:

25 (1) For any sexual assault kit under RCW 5.70.050 where forensic
26 analysis has generated a profile that has resulted in a hit in the
27 combined DNA index system, the office of the attorney general may
28 request information from the applicable law enforcement agency and
29 prosecuting attorney as to the case status of any related criminal
30 investigation and prosecution, including information as provided under
31 section 1(2)(b) of this act as well as any other relevant information.
32 The law enforcement agency and prosecuting attorney shall provide
33 requested case status updates to the office of the attorney general.
34 The office of the attorney general shall consult with the Washington

1 association of sheriffs and police chiefs when developing any
2 procedures for requesting and collecting case status updates under
3 this section.

4 (2) Nothing in this section may be interpreted to require any law
5 enforcement agency or prosecuting attorney to disclose any information
6 that would jeopardize an active criminal investigation or prosecution"

7
8 Renumber the remaining sections consecutively and correct any
9 internal references accordingly.

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11 On page 2, beginning on line 38, after "shall" strike all material
12 through "investigation" on page 3, line 2 and insert "make requested
13 case files and other documents available to the commission, provided
14 that the case files are not linked to ongoing, open investigations"

15
16 On page 3, line 6, after "be" strike "provided" and insert "made
17 available"

18
19 Correct the title.

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EFFECT:

- Requires the Washington Association of Sheriffs and Police Chiefs (WASPC), in consultation with the Office of the Attorney General (AGO), to collect information on the investigational status of any sexual assault case with a previously unsubmitted sexual assault kit (SAK) (collected prior to July 24, 2015), provided that state funding is provided for this purpose. Requires the WASPC work with law enforcement agencies to update the investigational status of each open case not less than semiannually, and requires WASPC to submit corresponding semiannual reports to the Legislature and the Governor. Provides that "investigational status" means: (1) the agency case or incident number; (2) the date the request for forensic examination of the sexual assault kit was submitted to the Washington state patrol crime laboratory; (3) the date the forensic examination was complete and reported to the law enforcement agency; (4) whether the case is open or closed; (5) for open cases, whether the case remains: An active investigation; open pending forensic examination results; or open

and inactive, in which case the agency must include a brief description as to why the case is inactive; and (6) for closed cases, whether the case was closed as a result of: A referral for prosecution where charges were filed or the prosecutor is reviewing the case; a referral for prosecution where the prosecutor declined to file charges based on the case being legally insufficient; a referral for prosecution where the prosecutor declined to file charges because the case failed to meet prosecutorial charging standards; after reviewing the results of the forensic examination, there was no evidence that a crime occurred, or there was lack of probable cause that a crime occurred; the inability to locate the victim or lack of victim participation; or any other reason, in which case the agency must include a brief description as to why the case closed. Provides that these reporting requirements do not require a law enforcement agency to disclose any information that would jeopardize an active criminal investigation.

- Modifies the provisions requiring law enforcement agencies and prosecutors to report to the AGO case status updates for cases with CODIS hits tied to previously unsubmitted SAKs by: Providing that case status includes changes to investigational status as defined in the amendment, as well as any other relevant information; providing that the reporting requirement does not require a law enforcement agency or prosecutor to disclose any information that would jeopardize an active criminal investigation or prosecution; adding the requirement for the AGO to consult with WASPC; and removing the requirement for the AGO to submit semiannual reports to the Legislature and Governor.
- Modifies the annual case review program in the underlying bill by providing that law enforcement agencies and prosecuting attorneys selected for the program must make case files available to the Criminal Justice Training Commission (CJTC) (rather than providing that agencies and prosecuting attorneys selected for the program must provide those case files to the CJTC).

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