
SUBSTITUTE HOUSE BILL 1109

State of Washington

67th Legislature

2021 Regular Session

By House Public Safety (originally sponsored by Representatives Orwall, Mosbrucker, Simmons, Goodman, Leavitt, Valdez, Kloba, Graham, Morgan, Caldier, Rule, and Macri)

READ FIRST TIME 02/02/21.

1 AN ACT Relating to supporting victims of sexual assault; amending
2 RCW 43.101.278 and 70.125.110; and adding a new section to chapter
3 5.70 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 5.70 RCW
6 to read as follows:

7 (1) For any sexual assault kit under RCW 5.70.050 where forensic
8 analysis has generated a profile that has resulted in a hit in the
9 combined DNA index system, the applicable law enforcement agency and
10 prosecuting attorney shall, upon request of the office of the
11 attorney general, report changes in case status as to any related
12 criminal investigation and prosecution to the office of the attorney
13 general in accordance with policies and procedures established under
14 subsection (2) of this section.

15 (2) The office of the attorney general shall establish policies
16 and procedures for the reporting requirement under this section. The
17 office of the attorney general may consult with the sexual assault
18 forensic examination best practices advisory group in determining the
19 types of information required for status updates under this section.
20 The office of the attorney general shall submit semiannual reports on
21 the status of investigations and prosecutions for sexual assault

1 cases under this section to the sexual assault forensic examination
2 best practices advisory group, the appropriate committees of the
3 legislature, and the governor. The initial reports must be submitted
4 by December 1, 2021, and by July 31, 2022, and subsequent reports
5 must be submitted by January 31st and July 31st of each year
6 thereafter.

7 **Sec. 2.** RCW 43.101.278 and 2020 c 26 s 8 are each amended to
8 read as follows:

9 (1) Subject to the availability of amounts appropriated for this
10 specific purpose, the commission shall ~~((develop a proposal for a))~~
11 conduct an annual case review program. The ~~((commission shall~~
12 ~~research, design, and develop case review strategies designed to~~
13 ~~optimize outcomes in sexual assault investigations through improved))~~
14 program must review case files from law enforcement agencies and
15 prosecuting attorneys selected by the commission in order to identify
16 changes to training and investigatory practices necessary to optimize
17 outcomes in sexual assault investigations and prosecutions involving
18 adult victims. The ~~((proposed))~~ program must ~~((evaluate))~~ include:

19 (a) An evaluation of whether current training and practices
20 foster a trauma-informed, victim-centered approach to victim
21 interviews and that identifies best practices and current gaps in
22 training and assesses the integration of the community resiliency
23 model ~~((The program will include a))~~;

24 (b) A comparison of cases involving investigators and
25 interviewers who have participated in training to cases involving
26 investigators and interviewers who have not participated in
27 training ~~((The program will also include other randomly))~~;

28 (c) Randomly selected cases for a systematic review to assess
29 whether current practices conform to national best practices for a
30 multidisciplinary approach to investigating sexual assault cases and
31 interacting with survivors; and

32 (d) An analysis of the impact that race and ethnicity have on
33 sexual assault case outcomes.

34 (2) The case review program may review and access files,
35 including all reports and recordings, pertaining to closed cases
36 involving allegations of adult sexual assault only. Any law
37 enforcement agency or prosecuting attorney selected for the program
38 by the commission shall provide the commission with any requested
39 case files and other documents necessary to conduct case reviews,

1 provided that the case is not linked to an ongoing, open
2 investigation and that redactions may be made where appropriate and
3 necessary. Agencies and prosecuting attorneys shall include available
4 information on the race and ethnicity of all sexual assault victims
5 in the relevant case files provided to the commission. Case files and
6 other documents must be provided to the commission according to
7 appropriate deadlines established by the commission in consultation
8 with the agency or prosecuting attorney.

9 (3) If a law enforcement agency has not participated in the
10 training under RCW 43.101.272 by July 1, 2022, the commission may
11 prioritize the agency for selection to participate in the program
12 under this section.

13 (4) In designing and conducting the program, the commission shall
14 consult and collaborate with experts in trauma-informed and victim-
15 centered training, experts in sexual assault investigations and
16 prosecutions, victim advocates, and other stakeholders identified by
17 the commission. The commission may form a multidisciplinary working
18 group for the purpose of carrying out the requirements of this
19 section.

20 ~~((3))~~ (5) The commission shall submit a report with a summary
21 of its ~~((proposal))~~ work to the governor and the appropriate
22 committees of the legislature by December ~~((1, 2020))~~ 1st of each
23 year.

24 ~~((4) This section expires July 1, 2021.))~~

25 **Sec. 3.** RCW 70.125.110 and 2019 c 93 s 9 are each amended to
26 read as follows:

27 (1) In addition to all other rights provided in law, a sexual
28 assault survivor has the right to:

29 (a) Receive a medical forensic examination at no cost;

30 (b) Receive written notice of the right under (a) of this
31 subsection and that he or she may be eligible for other benefits
32 under the crime victim compensation program, through a form developed
33 by the office of crime victims advocacy, from the medical facility
34 providing the survivor medical treatment relating to the sexual
35 assault;

36 (c) Receive a referral to an accredited community sexual assault
37 program or, in the case of a survivor who is a minor, receive a
38 connection to services in accordance with the county child sexual
39 abuse investigation protocol under RCW 26.44.180, which may include a

1 referral to a children's advocacy center, when presenting at a
2 medical facility for medical treatment relating to the assault and
3 also when reporting the assault to a law enforcement officer;

4 (d) Consult with a sexual assault survivor's advocate throughout
5 the investigatory process and prosecution of the survivor's case,
6 including during ((any)): Any medical evidentiary examination ((and
7 during)) at a medical facility; any interview by law enforcement
8 officers, prosecuting attorneys, or defense attorneys((, unless an
9 advocate cannot be summoned in a timely manner,)); and court
10 proceedings, except while providing testimony in a criminal trial, in
11 which case the advocate may be present in the courtroom. Medical
12 facilities, law enforcement officers, prosecuting attorneys, defense
13 attorneys, courts and other applicable criminal justice agencies,
14 including correctional facilities, are responsible for providing
15 advocates access to facilities where necessary to fulfill the
16 requirements under this subsection. The right in this subsection
17 applies regardless of whether a survivor has waived the right in a
18 previous examination or interview;

19 ((e)) (e) Be informed, upon the request of a survivor, of when
20 the forensic analysis of his or her sexual assault kit and other
21 related physical evidence will be or was completed, the results of
22 the forensic analysis, and whether the analysis yielded a DNA profile
23 and match, provided that the disclosure is made at an appropriate
24 time so as to not impede or compromise an ongoing investigation;

25 ((d)) (f) Receive notice prior to the destruction or disposal
26 of his or her sexual assault kit;

27 ((e)) (g) Receive a copy of the police report related to the
28 investigation without charge; ((and

29 (f)) (h) Review his or her statement before law enforcement
30 refers a case to the prosecuting attorney;

31 (i) Receive timely notifications from the law enforcement agency
32 and prosecuting attorney as to the status of the investigation and
33 any related prosecution of the survivor's case;

34 (j) Be informed by the law enforcement agency and prosecuting
35 attorney as to the expected and appropriate time frames for receiving
36 responses to the survivor's inquiries regarding the status of the
37 investigation and any related prosecution of the survivor's case; and
38 further, receive responses to the survivor's inquiries in a manner
39 consistent with those time frames;

1 (k) Access interpreter services where necessary to facilitate
2 communication throughout the investigatory process and prosecution of
3 the survivor's case; and

4 (l) Where the sexual assault survivor is a minor, have:

5 (i) The prosecutor consider and discuss the survivor's requests
6 for remote video testimony under RCW 9A.44.150 when appropriate; and

7 (ii) The court consider requests from the prosecutor for
8 safeguarding the survivor's feelings of security and safety in the
9 courtroom in order to facilitate the survivor's testimony and
10 participation in the criminal justice process.

11 (2) A sexual assault survivor retains all the rights of this
12 section regardless of whether the survivor agrees to participate in
13 the criminal justice system and regardless of whether the survivor
14 agrees to receive a forensic examination to collect evidence.

15 (3) If a survivor is denied any right enumerated in subsection
16 (1) of this section, he or she may seek an order directing compliance
17 by the relevant party or parties by filing a petition in the superior
18 court in the county in which the sexual assault occurred and
19 providing notice of such petition to the relevant party or parties.
20 Compliance with the right is the sole remedy available to the
21 survivor. The court shall expedite consideration of a petition filed
22 under this subsection.

23 (4) Nothing contained in this section may be construed to provide
24 grounds for error in favor of a criminal defendant in a criminal
25 proceeding. Except in the circumstances as provided in subsection (3)
26 of this section, this section does not grant a new cause of action or
27 remedy against the state, its political subdivisions, law enforcement
28 agencies, or prosecuting attorneys. The failure of a person to make a
29 reasonable effort to protect or adhere to the rights enumerated in
30 this section may not result in civil liability against that person.
31 This section does not limit other civil remedies or defenses of the
32 sexual assault survivor or the offender.

33 (5) For the purposes of this section:

34 (a) "Law enforcement officer" means a general authority
35 Washington peace officer, as defined in RCW 10.93.020, or any person
36 employed by a private police agency at a public school as described
37 in RCW 28A.150.010 or an institution of higher education, as defined
38 in RCW 28B.10.016.

39 (b) "Sexual assault survivor" means any person who is a victim,
40 as defined in RCW 7.69.020, of sexual assault. However, if a victim

1 is incapacitated, deceased, or a minor, sexual assault survivor also
2 includes any lawful representative of the victim, including a parent,
3 guardian, spouse, or other designated representative, unless the
4 person is an alleged perpetrator or suspect.

5 (c) "Sexual assault survivor's advocate" means any person who is
6 defined in RCW 5.60.060 as a sexual assault advocate, or a crime
7 victim advocate.

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