

SHB 1068 - S COMM AMD

By Committee on Law & Justice

ADOPTED 4/13/2015

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 70.125
4 RCW to read as follows:

5 (1) When a law enforcement agency receives a sexual assault
6 examination kit, the law enforcement agency must, within thirty days
7 of its receipt, submit a request for laboratory examination to the
8 Washington state patrol crime laboratory for prioritization for
9 testing by it or another accredited laboratory that holds an
10 outsourcing agreement with the Washington state patrol if:

11 (a) Consent has been given by the victim; or

12 (b) The victim is a person under the age of eighteen who is not
13 emancipated pursuant to chapter 13.64 RCW.

14 (2) Subject to available funding, the Washington state patrol
15 crime laboratory must give priority to the laboratory examination of
16 sexual assault examination kits at the request of a local law
17 enforcement agency for:

18 (a) Active investigations and cases with impending court dates;

19 (b) Active investigations where public safety is an immediate
20 concern;

21 (c) Violent crimes investigations, including active sexual
22 assault investigations;

23 (d) Postconviction cases; and

24 (e) Other crimes' investigations and nonactive investigations,
25 such as previously unsubmitted older sexual assault kits or recently
26 collected sexual assault kits that the submitting agency has
27 determined to be lower priority based on their initial investigation.

28 (3) The failure of a law enforcement agency to submit a request
29 for laboratory examination within the time prescribed under this
30 section does not constitute grounds in any criminal proceeding for
31 challenging the validity of a DNA evidence association, and any
32 evidence obtained from the sexual assault examination kit may not be
33 excluded by a court on those grounds.

1 (4) A person accused or convicted of committing a crime against a
2 victim has no standing to object to any failure to comply with the
3 requirements of this section, and the failure to comply with the
4 requirements of this section is not grounds for setting aside the
5 conviction or sentence.

6 (5) Nothing in this section may be construed to create a private
7 right of action or claim on the part of any individual, entity, or
8 agency against any law enforcement agency or any contractor of any
9 law enforcement agency.

10 (6) This section applies prospectively only and not
11 retroactively. It only applies to sexual assault examinations
12 performed on or after the effective date of this section.

13 (7)(a) Until June 30, 2018, the Washington state patrol shall
14 compile the following information related to the sexual assault
15 examination kits identified in this section:

16 (i) The number of requests for laboratory examination made for
17 sexual assault examination kits and the law enforcement agencies that
18 submitted the requests; and

19 (ii) The progress made towards testing the sexual assault
20 examination kits, including the status of requests for laboratory
21 examination made by each law enforcement agency.

22 (b) The Washington state patrol shall make recommendations for
23 increasing the progress on testing any untested sexual assault
24 examination kits.

25 (c) Beginning in 2015, the Washington state patrol shall report
26 its findings and recommendations annually to the appropriate
27 committees of the legislature and the governor by December 1st of
28 each year.

29 NEW SECTION. **Sec. 2.** (1)(a) A legislative task force is
30 established to review best practice models for managing all aspects
31 of sexual assault examinations and for reducing the number of
32 untested sexual assault examination kits in Washington state that
33 were collected prior to the effective date of this section.

34 (i) The caucus leaders from the senate shall appoint one member
35 from each of the two largest caucuses of the senate.

36 (ii) The caucus leaders from the house of representatives shall
37 appoint one member from each of the two largest caucuses of the house
38 of representatives.

1 (iii) The president of the senate and the speaker of the house of
2 representatives shall jointly appoint:

3 (A) One member representing each of the following:

4 (I) The Washington state patrol;

5 (II) The Washington association of sheriffs and police chiefs;

6 (III) The Washington association of prosecuting attorneys;

7 (IV) The Washington defender association or the Washington
8 association of criminal defense lawyers;

9 (V) The Washington association of cities;

10 (VI) The Washington association of county officials;

11 (VII) The Washington coalition of sexual assault programs;

12 (VIII) The office of crime victims advocacy;

13 (IX) The Washington state hospital association;

14 (X) The Washington state forensic investigations council;

15 (XI) A public institution of higher education as defined in RCW
16 28B.10.016; and

17 (XII) A private higher education institution as defined in RCW
18 28B.07.020; and

19 (B) Two members representing survivors of sexual assault.

20 (b) The task force shall choose two cochairs from among its
21 legislative membership. The legislative membership shall convene the
22 initial meeting of the task force.

23 (2) The duties of the task force include, but are not limited to:

24 (a) Researching and determining the number of untested sexual
25 assault examination kits in Washington state;

26 (b) Researching the locations where the untested sexual assault
27 examination kits are stored;

28 (c) Researching, reviewing, and making recommendations regarding
29 legislative policy options for reducing the number of untested sexual
30 assault examination kits;

31 (d) Researching the best practice models both in state and from
32 other states for collaborative responses to victims of sexual assault
33 from the point the sexual assault examination kit is collected to the
34 conclusion of the investigation and providing recommendations
35 regarding any existing gaps in Washington and resources that may be
36 necessary to address those gaps; and

37 (e) Researching, identifying, and making recommendations for
38 securing nonstate funding for testing the sexual assault examination
39 kits, and reporting on progress made toward securing such funding.

1 (3) Staff support for the task force must be provided by the
2 senate committee services and the house of representatives office of
3 program research.

4 (4) Legislative members of the task force must be reimbursed for
5 travel expenses in accordance with RCW 44.04.120. Nonlegislative
6 members, except those representing an employer or organization, are
7 entitled to be reimbursed for travel expenses in accordance with RCW
8 43.03.050 and 43.03.060.

9 (5) The expenses of the task force must be paid jointly by the
10 senate and the house of representatives. Task force expenditures are
11 subject to approval by the senate facilities and operations committee
12 and the house of representatives executive rules committee, or their
13 successor committees.

14 (6) The first meeting of the task force must occur prior to
15 October 1, 2015. The task force shall submit a preliminary report
16 regarding its initial findings and recommendations to the appropriate
17 committees of the legislature and the governor no later than December
18 1, 2015.

19 (7) The task force must meet no less than twice annually.

20 (8) The task force shall report its findings and recommendations
21 to the appropriate committees of the legislature and the governor by
22 September 30, 2016, and by September 30th of each subsequent year.

23 (9) This section expires June 30, 2018."

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24 On page 1, line 1 of the title, after "kits;" strike the
25 remainder of the title and insert "adding a new section to chapter
26 70.125 RCW; creating a new section; and providing an expiration
27 date."

EFFECT: Consent to test the kit is not required if the victim is a person under the age of eighteen who is not emancipated. The crime laboratory must give priority to laboratory examination of sexual assault examination kits at the request of a local law enforcement agency. The caucus leaders select legislative members of the task force. The membership of the task force is changed: A member from one state and one private institution of higher education is included; the members from an additional statewide law enforcement agency and the innocence project are eliminated. The task force is led by legislative members instead of law enforcement and victims advocacy

groups. Task force members are reimbursed for expenses. The Washington state patrol compiles information and statistics regarding testing.

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