

# FINAL BILL REPORT

## SHB 1068

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Synopsis as Enacted

**Brief Description:** Concerning sexual assault examination kits.

**Sponsors:** House Committee on Public Safety (originally sponsored by Representatives Orwall, Kagi, Appleton, Gregerson, Reykdal, Carlyle, Stanford, Sawyer, Fitzgibbon, Jinkins, Cody, Hudgins, Senn, Clibborn, Moeller, Riccelli, Moscoso, Farrell and Fey).

**House Committee on Public Safety**  
**House Committee on Appropriations**  
**Senate Committee on Law & Justice**  
**Senate Committee on Ways & Means**

### **Background:**

After a person has been the victim of a sexual assault, the person may undergo a forensic examination for the purpose of collecting any evidence that may have been left behind during the assault. Biological evidence such as saliva, blood, or semen may be collected. The doctor or nurse conducting the examination preserves the evidence using a sexual assault examination kit, commonly referred to as a rape kit. The sexual assault examination kit contains tools that may be used by the doctor or nurse, such as swabs, combs, blood collection devices, and documentation forms. When the examination is complete, the evidence is packaged and steps are taken to preserve the chain of custody.

In some cases, custody of the sexual assault examination kit may be transferred to a law enforcement agency. When a law enforcement agency receives a sexual assault examination kit, the agency may submit it to a crime lab for analysis, but is under no specific deadline for submission.

### **Summary:**

When a law enforcement agency receives a sexual assault examination kit, and consent has been given for the rape kit to be analyzed as part of a sexual assault investigation, the agency must submit a request for laboratory analysis to the Washington State Patrol Crime Laboratory within 30 days of receiving it. In addition, law enforcement must submit a request for laboratory analysis for all sexual assault examination kits collected from non-emancipated minors. The failure of a law enforcement agency to meet the 30-day deadline is

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not a basis to exclude the evidence from a court proceeding or to overturn a conviction or sentence, and it does not create a private right of action against the agency.

The Washington State Patrol Crime Laboratory must, subject to available funding, give priority to laboratory examination of sexual assault examination kits for:

- active investigations and cases with impending court dates;
- active investigations where public safety is an immediate concern;
- violent crimes investigations, including active sexual assault investigations;
- postconviction cases; and
- other criminal investigations and nonactive investigations, such as previously unsubmitted older sexual assault kits or recently collected sexual assault kits that the submitting agency has determined to be lower priority based on their initial investigation.

The Washington State Patrol is required to compile information relating to the requests for laboratory examination submitted by law enforcement and report the following information annually to the Legislature and the Governor: (1) The number of requests for laboratory examination made for sexual assault examination kits and the law enforcement agencies that submitted the requests; and (2) the progress made toward testing the sexual assault examination kits, including the status of requests for laboratory examination made by each law enforcement agency. The requirement to compile information and report to the Legislature and Governor expires on June 30, 2018.

A legislative task force is created to study best practice models for managing all aspects of sexual assault examinations and for reducing the number of untested sexual assault examination kits in Washington that were collected prior to July 24, 2015. The caucus leaders from the Senate must appoint one member from each of the two largest caucuses of the Senate. The caucus leaders from the House of Representatives must appoint one member from each of the two largest caucuses of the House of Representatives. The President of the Senate and the Speaker of the House must jointly appoint one member representing each of the following groups:

- the Washington State Patrol;
- the Washington Association of Sheriffs and Police Chiefs;
- the Washington Association of Prosecuting Attorneys;
- the Washington Defender Association or the Washington Association of Criminal Defense Lawyers;
- the Washington Association of Cities;
- the Washington Association of County Officials;
- the Washington Coalition of Sexual Assault Programs;
- the Office of Crime Victims Advocacy;
- the Washington State Hospital Association;
- the Washington Forensic Investigations Council;
- a public institution of higher education; and
- a private institution of higher education.

Two members representing survivors of sexual assault must also be appointed. The duties of the task force include, but are not limited to the following:

- researching and determining the number of untested sexual assault examination kits in Washington state;
- researching the locations where the untested sexual assault examination kits are stored;
- researching, reviewing, and making recommendations regarding legislative policy options for reducing the number of untested sexual assault examination kits;
- researching the best practice models both in state and from other states for collaborative responses to victims of sexual assault from the point the sexual assault examination kit is collected to the conclusion of the investigation and providing recommendations regarding any existing gaps in Washington and resources that may be necessary to address those gaps; and
- researching, identifying, and making recommendations for securing nonstate funding for testing the sexual assault examination kits, and reporting on progress made toward securing such funding.

The task force must meet prior to October 1, 2015 and submit a preliminary report to the Legislature and the Governor prior to December 1, 2015. The task force must meet at least twice annually and provide an annual report on its findings and recommendations to the Legislature and the Governor. The task force expires on June 30, 2018.

**Votes on Final Passage:**

House	82	15	
Senate	46	0	(Senate amended)
House	83	14	(House concurred)

**Effective:** July 24, 2015