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**SUBSTITUTE HOUSE BILL 2530**

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**State of Washington**

**64th Legislature**

**2016 Regular Session**

**By** House Public Safety (originally sponsored by Representatives Orwall, McCabe, Appleton, Wylie, Tarleton, Senn, McBride, Kagi, Ryu, Hudgins, S. Hunt, Gregerson, Reykdal, Farrell, Pollet, Ortiz-Self, Harris, Bergquist, Lytton, Kochmar, Blake, Cody, Stambaugh, Wilson, Jinkins, Kuderer, Muri, Van De Wege, Frame, Hargrove, Ormsby, Sells, Pettigrew, and Stanford)

READ FIRST TIME 01/28/16.

1 AN ACT Relating to protecting victims of sex crimes; amending RCW  
2 36.27.020, 43.43.670, and 82.32.145; amending 2015 c 247 s 2  
3 (uncodified); reenacting and amending RCW 42.56.240 and 43.79A.040;  
4 adding new sections to chapter 36.28A RCW; adding a new section to  
5 chapter 35.21 RCW; adding a new section to chapter 36.28 RCW; adding  
6 a new section to chapter 43.43 RCW; adding a new section to chapter  
7 70.41 RCW; adding a new section to chapter 43.43 RCW; adding a new  
8 section to chapter 43.31 RCW; adding a new chapter to Title 82 RCW;  
9 creating a new section; prescribing penalties; providing an effective  
10 date; and providing expiration dates.

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

12 **PART I - TRACKING AND TESTING OF SEXUAL ASSAULT KITS**

13 NEW SECTION. **Sec. 1.** A new section is added to chapter 36.28A  
14 RCW to read as follows:

15 (1) When funded, the association shall create and operate a  
16 statewide sexual assault kit tracking system.

17 (2) The statewide sexual assault kit tracking system must:

18 (a) Track the location and status of sexual assault kits  
19 throughout the criminal justice process, including the initial  
20 collection in examinations performed at medical facilities, receipt

1 and storage at law enforcement agencies, receipt and testing at  
2 forensic laboratories, and storage and any destruction after  
3 completion of testing;

4 (b) Allow medical facilities performing sexual assault forensic  
5 examinations, law enforcement agencies, prosecutors, the Washington  
6 state patrol, and other entities in the custody of sexual assault  
7 kits to update and track the status and location of sexual assault  
8 kits; and

9 (c) Allow victims of sexual assault to anonymously track or  
10 receive updates regarding the status of their sexual assault kits.

11 (3) The association must submit a quarterly report on the  
12 statewide sexual assault kit tracking system to the joint legislative  
13 task force on sexual assault forensic examination best practices, the  
14 appropriate committees of the legislature, and the governor. The  
15 association may publish the current quarterly report on its web site.  
16 The first quarterly report is due on January 31, 2017, and subsequent  
17 quarterly reports are due on April 30th, July 31st, October 31st, and  
18 January 31st of each year. The report must include the following:

19 (a) The total number of kits in the system statewide and by  
20 jurisdiction;

21 (b) The total and quarterly number of kits where forensic  
22 analysis has been completed;

23 (c) The number of kits added to the system in the quarter  
24 statewide and by jurisdiction;

25 (d) The number of kits where forensic analysis has been completed  
26 in the quarter statewide and by jurisdiction;

27 (e) The total and quarterly number of kits where forensic  
28 analysis has been requested but not completed statewide and by  
29 jurisdiction;

30 (f) The average and median length of time for kits to be  
31 submitted for forensic analysis after being added to the system,  
32 including separate sets of data for all kits in the system statewide  
33 and by jurisdiction and for kits added to the system in the quarter  
34 statewide and by jurisdiction;

35 (g) The average and median length of time for forensic analysis  
36 to be completed on kits after being submitted for analysis, including  
37 separate sets of data for all kits in the system statewide and by  
38 jurisdiction and for kits added to the system in the quarter  
39 statewide and by jurisdiction; and

1 (h) The total and quarterly number of kits destroyed or removed  
2 from the system statewide and by jurisdiction.

3 (4) Any appointed or elected official, public employee, or public  
4 agency as defined in RCW 4.24.470, or combination of units of  
5 government and its employees, as provided in RCW 36.28A.010, and  
6 hospitals and hospital employees that provide services to victims of  
7 sexual assault are immune from liability for damages for any release  
8 of information or the failure to release information related to the  
9 statewide sexual assault kit tracking system, so long as the release  
10 was without gross negligence. The immunity provided under this  
11 subsection applies to the release of relevant and necessary  
12 information to other public officials, public employees, or public  
13 agencies, and to the public.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 35.21  
15 RCW to read as follows:

16 Local law enforcement agencies shall participate in the statewide  
17 sexual assault kit tracking system established in section 1 of this  
18 act for the purpose of tracking the status of all sexual assault kits  
19 in the custody of local law enforcement agencies and other entities  
20 contracting with local law enforcement agencies.

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.28  
22 RCW to read as follows:

23 A sheriff and his or her deputies shall participate in the  
24 statewide sexual assault kit tracking system established in section 1  
25 of this act for the purpose of tracking the status of all sexual  
26 assault kits in the custody of the department and other entities  
27 contracting with the department.

28 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.43  
29 RCW to read as follows:

30 The Washington state patrol shall participate in the statewide  
31 sexual assault kit tracking system established in section 1 of this  
32 act for the purpose of tracking the status of all sexual assault kits  
33 in the custody of the Washington state patrol and other entities  
34 contracting with the Washington state patrol.

35 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.41  
36 RCW to read as follows:

1 Hospitals licensed under this chapter shall participate in the  
2 statewide sexual assault kit tracking system established in section 1  
3 of this act for the purpose of tracking the status of all sexual  
4 assault kits collected by or in the custody of hospitals and other  
5 entities contracting with hospitals.

6 **Sec. 6.** RCW 36.27.020 and 2012 1st sp.s. c 5 s 2 are each  
7 amended to read as follows:

8 The prosecuting attorney shall:

9 (1) Be legal adviser of the legislative authority, giving it his  
10 or her written opinion when required by the legislative authority or  
11 the chairperson thereof touching any subject which the legislative  
12 authority may be called or required to act upon relating to the  
13 management of county affairs;

14 (2) Be legal adviser to all county and precinct officers and  
15 school directors in all matters relating to their official business,  
16 and when required draw up all instruments of an official nature for  
17 the use of said officers;

18 (3) Appear for and represent the state, county, and all school  
19 districts subject to the supervisory control and direction of the  
20 attorney general in all criminal and civil proceedings in which the  
21 state or the county or any school district in the county may be a  
22 party;

23 (4) Prosecute all criminal and civil actions in which the state  
24 or the county may be a party, defend all suits brought against the  
25 state or the county, and prosecute actions upon forfeited  
26 recognizances and bonds and actions for the recovery of debts, fines,  
27 penalties, and forfeitures accruing to the state or the county;

28 (5) Attend and appear before and give advice to the grand jury  
29 when cases are presented to it for consideration and draw all  
30 indictments when required by the grand jury;

31 (6) Institute and prosecute proceedings before magistrates for  
32 the arrest of persons charged with or reasonably suspected of  
33 felonies when the prosecuting attorney has information that any such  
34 offense has been committed and the prosecuting attorney shall for  
35 that purpose attend when required by them if the prosecuting attorney  
36 is not then in attendance upon the superior court;

37 (7) Carefully tax all cost bills in criminal cases and take care  
38 that no useless witness fees are taxed as part of the costs and that

1 the officers authorized to execute process tax no other or greater  
2 fees than the fees allowed by law;

3 (8) Receive all cost bills in criminal cases before district  
4 judges at the trial of which the prosecuting attorney was not  
5 present, before they are lodged with the legislative authority for  
6 payment, whereupon the prosecuting attorney may retax the same and  
7 the prosecuting attorney must do so if the legislative authority  
8 deems any bill exorbitant or improperly taxed;

9 (9) Present all violations of the election laws which may come to  
10 the prosecuting attorney's knowledge to the special consideration of  
11 the proper jury;

12 (10) Examine once in each year the official bonds of all county  
13 and precinct officers and report to the legislative authority any  
14 defect in the bonds of any such officer;

15 (11) Seek to reform and improve the administration of criminal  
16 justice and stimulate efforts to remedy inadequacies or injustice in  
17 substantive or procedural law;

18 (12) Participate in the statewide sexual assault kit tracking  
19 system established under section 1 of this act for the purpose of  
20 tracking the status of all sexual assault kits connected to criminal  
21 investigations and prosecutions within the county.

22 **Sec. 7.** RCW 42.56.240 and 2015 c 224 s 3 and 2015 c 91 s 1 are  
23 each reenacted and amended to read as follows:

24 The following investigative, law enforcement, and crime victim  
25 information is exempt from public inspection and copying under this  
26 chapter:

27 (1) Specific intelligence information and specific investigative  
28 records compiled by investigative, law enforcement, and penology  
29 agencies, and state agencies vested with the responsibility to  
30 discipline members of any profession, the nondisclosure of which is  
31 essential to effective law enforcement or for the protection of any  
32 person's right to privacy;

33 (2) Information revealing the identity of persons who are  
34 witnesses to or victims of crime or who file complaints with  
35 investigative, law enforcement, or penology agencies, other than the  
36 commission, if disclosure would endanger any person's life, physical  
37 safety, or property. If at the time a complaint is filed the  
38 complainant, victim, or witness indicates a desire for disclosure or  
39 nondisclosure, such desire shall govern. However, all complaints

1 filed with the commission about any elected official or candidate for  
2 public office must be made in writing and signed by the complainant  
3 under oath;

4 (3) Any records of investigative reports prepared by any state,  
5 county, municipal, or other law enforcement agency pertaining to sex  
6 offenses contained in chapter 9A.44 RCW or sexually violent offenses  
7 as defined in RCW 71.09.020, which have been transferred to the  
8 Washington association of sheriffs and police chiefs for permanent  
9 electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

10 (4) License applications under RCW 9.41.070; copies of license  
11 applications or information on the applications may be released to  
12 law enforcement or corrections agencies;

13 (5) Information revealing the identity of child victims of sexual  
14 assault who are under age eighteen. Identifying information means the  
15 child victim's name, address, location, photograph, and in cases in  
16 which the child victim is a relative or stepchild of the alleged  
17 perpetrator, identification of the relationship between the child and  
18 the alleged perpetrator;

19 (6) Information contained in a local or regionally maintained  
20 gang database as well as the statewide gang database referenced in  
21 RCW 43.43.762;

22 (7) Data from the electronic sales tracking system established in  
23 RCW 69.43.165;

24 (8) Information submitted to the statewide unified sex offender  
25 notification and registration program under RCW 36.28A.040(6) by a  
26 person for the purpose of receiving notification regarding a  
27 registered sex offender, including the person's name, residential  
28 address, and email address;

29 (9) Personally identifying information collected by law  
30 enforcement agencies pursuant to local security alarm system programs  
31 and vacation crime watch programs. Nothing in this subsection shall  
32 be interpreted so as to prohibit the legal owner of a residence or  
33 business from accessing information regarding his or her residence or  
34 business;

35 (10) The felony firearm offense conviction database of felony  
36 firearm offenders established in RCW 43.43.822;

37 (11) The identity of a state employee or officer who has in good  
38 faith filed a complaint with an ethics board, as provided in RCW  
39 42.52.410, or who has in good faith reported improper governmental

1 action, as defined in RCW 42.40.020, to the auditor or other public  
2 official, as defined in RCW 42.40.020;

3 (12) The following security threat group information collected  
4 and maintained by the department of corrections pursuant to RCW  
5 72.09.745: (a) Information that could lead to the identification of a  
6 person's security threat group status, affiliation, or activities;  
7 (b) information that reveals specific security threats associated  
8 with the operation and activities of security threat groups; and (c)  
9 information that identifies the number of security threat group  
10 members, affiliates, or associates; (~~and~~)

11 (13) The global positioning system data that would indicate the  
12 location of the residence of an employee or worker of a criminal  
13 justice agency as defined in RCW 10.97.030; and

14 (14) Any records and information contained within the statewide  
15 sexual assault kit tracking system established under section 1 of  
16 this act.

17 **Sec. 8.** RCW 43.43.670 and 1999 c 40 s 6 are each amended to read  
18 as follows:

19 (1) There is created in the Washington state patrol a bureau of  
20 forensic laboratory services system which is authorized to:

21 (a) Provide laboratory services for the purpose of analyzing and  
22 scientifically handling any physical evidence relating to any crime.

23 (b) Provide training assistance for local law enforcement  
24 personnel.

25 (c) Provide all necessary toxicology services requested by all  
26 coroners, medical examiners, and prosecuting attorneys.

27 (2) The bureau of forensic laboratory services shall assign  
28 priority to a request for services with due regard to whether the  
29 case involves criminal activity against persons. The Washington state  
30 forensic investigations council shall assist the bureau of forensic  
31 laboratory services in devising policies to promote the most  
32 efficient use of laboratory services consistent with this section.  
33 The forensic investigations council shall be actively involved in the  
34 preparation of the bureau of forensic laboratory services budget and  
35 shall approve the bureau of forensic laboratory services budget prior  
36 to its formal submission by the state patrol to the office of  
37 financial management pursuant to RCW 43.88.030. The bureau of  
38 forensic laboratory services, in consultation with the Washington  
39 state forensic investigations council, shall develop budget

1 submissions to the office of financial management sufficient to  
2 increase capacity to test all evidence submitted from crimes against  
3 persons by 2020, and all evidence submitted from property crimes by  
4 2025.

5 **PART II - GRANTS TO LAW ENFORCEMENT AGENCIES AND TESTING**  
6 **OF PREVIOUSLY UNSUBMITTED KITS**

7 NEW SECTION. **Sec. 9.** The legislature finds that, as of July 24,  
8 2015, there were approximately six thousand sexual assault kits in  
9 the possession of Washington's law enforcement agencies, which have  
10 not been submitted for forensic examination. The legislature finds  
11 all of these kits should undergo forensic testing and receive a  
12 follow up reinvestigation of the underlying case once forensic  
13 testing is complete. To ensure the follow up reinvestigation, the  
14 legislature intends to utilize state, federal, and private resources  
15 to fund regional task forces composed of local law enforcement  
16 agencies partnered with victims' advocates. The legislature intends  
17 to fund the regional task forces with a five-year grant program  
18 through the Washington association of sheriffs and police chiefs. The  
19 grant moneys are intended for reinvestigation of all cases where a  
20 sexual assault kit was in the possession of a Washington law  
21 enforcement agency but not submitted for forensic testing as of July  
22 24, 2015.

23 This section expires June 30, 2022.

24 NEW SECTION. **Sec. 10.** A new section is added to chapter 36.28A  
25 RCW to read as follows:

26 The definitions in this section apply throughout this chapter  
27 unless the context clearly requires otherwise.

28 "Association" means the Washington association of sheriffs and  
29 police chiefs.

30 NEW SECTION. **Sec. 11.** A new section is added to chapter 36.28A  
31 RCW to read as follows:

32 (1) When funded, the association shall establish and administer a  
33 grant program for law enforcement agencies and regional task forces  
34 composed of local law enforcement agencies for the purpose of  
35 reinvestigating all cases where a sexual assault kit was in the



1 possession of a law enforcement agency but not submitted for forensic  
2 testing as of July 24, 2015.

3 (2) Grant recipients must:

4 (a) Submit for forensic testing all of the sexual assault kits in  
5 the possession of the grant recipient but not previously submitted  
6 for forensic testing as of July 24, 2015;

7 (b) Conduct investigations or reinvestigations of cases where a  
8 sexual assault kit was in the possession of a law enforcement agency  
9 but not submitted for forensic testing as of July 24, 2015;

10 (c) Use a community sexual assault victims' advocate for  
11 investigations funded by the grant;

12 (d) Develop and use protocols, in consultation with the joint  
13 legislative task force on sexual assault forensic examination best  
14 practices and the Washington coalition of sexual assault programs,  
15 for the notification of victims regarding results of forensic testing  
16 of sexual assault kits;

17 (e) Consult and coordinate with local prosecutors regarding  
18 investigations, filing of charges, and prosecution of cases arising  
19 from the grant program; and

20 (f) Submit data and information necessary for the association to  
21 comply with subsection (4) of this section.

22 (3) Grant awards may not be used to supplant preexisting funding  
23 for investigations of sexual assaults.

24 (4) The association must submit a quarterly report on the grant  
25 program established under this section to the joint legislative task  
26 force on sexual assault forensic examination best practices, the  
27 appropriate committees of the legislature, and the governor. The  
28 association may publish the current quarterly report on its web site.  
29 The first quarterly report is due January 31, 2017, and subsequent  
30 quarterly reports are due April 30th, July 31st, October 31st, and  
31 January 31st of each year. The report must include the following:

32 (a) The named recipients of grants and their jurisdictions;

33 (b) The amount of funding awarded with each grant;

34 (c) The number of investigations conducted with grant funding by  
35 each grant recipient and statewide;

36 (d) The number of CODIS entries and hits associated with  
37 investigations conducted with grant funding by each grant recipient  
38 and statewide;

39 (e) The number of serial offenders associated with investigations  
40 conducted with grant funding by each grant recipient and statewide;

1 (f) The number of criminal charges filed as a result of  
2 investigations conducted with grant funding by each grant recipient  
3 and statewide;

4 (g) The number of convictions and pleas arising from  
5 investigations conducted with grant funding by each grant recipient  
6 and statewide; and

7 (h) Recommendations for the state and local agencies to improve  
8 the investigations of sexual assaults in Washington.

9 (5) This section expires June 30, 2022.

10 NEW SECTION. **Sec. 12.** A new section is added to chapter 43.43  
11 RCW to read as follows:

12 (1) The Washington state patrol bureau of forensic laboratory  
13 services shall increase its capacity to conduct forensic analysis of  
14 sexual assault kits to the extent necessary to expeditiously test all  
15 sexual assault kits in the possession of law enforcement agencies but  
16 not submitted for forensic testing as of July 24, 2015. The increased  
17 capacity must accommodate the receipt and analysis of one thousand  
18 five hundred sexual assault kits between the effective date of this  
19 section and June 30, 2017, and an additional four thousand five  
20 hundred sexual assault kits between July 1, 2017, and June 30, 2022.  
21 This section does not modify the priorities for testing established  
22 in RCW 70.125.090. The Washington state patrol bureau of forensic  
23 laboratory services may contract with private laboratories in order  
24 to comply with the requirements of this section.

25 (2) This section expires June 30, 2022.

26 **PART III - ACCEPTING DONATIONS FOR PROTECTING VICTIMS**

27 NEW SECTION. **Sec. 13.** A new section is added to chapter 43.31  
28 RCW to read as follows:

29 (1) The Washington sexual assault kit program is created within  
30 the department for the purpose of accepting private funds for testing  
31 sexual assault kits and conducting related investigations where a  
32 sexual assault kit was in the possession of a law enforcement agency  
33 but not submitted for forensic testing as of July 24, 2015. The  
34 director may accept gifts, grants, donations, or moneys from any  
35 source for deposit in the Washington sexual assault kit account  
36 created under subsection (2) of this section.

1 (2) The Washington sexual assault kit account is created in the  
2 custody of the state treasurer. Funds deposited in the Washington  
3 sexual assault kit account may be used for the Washington sexual  
4 assault kit testing program established under this section. The  
5 Washington sexual assault kit account is subject to allotment  
6 procedures under chapter 43.88 RCW, but an appropriation is not  
7 required for expenditures.

8 (3) Funds deposited in the Washington sexual assault kit account  
9 must be transferred and used exclusively for the following:

10 (a) Forty-five percent of the funds for the Washington state  
11 patrol bureau of forensic laboratory services for the purpose of  
12 testing sexual assault kits in the possession of a law enforcement  
13 agency but not submitted for forensic testing as of July 24, 2015;

14 (b) Forty percent of the funds for the Washington association of  
15 sheriffs and police chiefs for the purpose of funding the grant  
16 program established under section 11 of this act; and

17 (c) Fifteen percent of the funds for the office of crime victims'  
18 advocacy in the department for the purpose of funding grants for  
19 sexual assault nurse examiner services and training.

20 (4) This section expires June 30, 2022.

21 **PART IV - SEXUALLY ORIENTED BUSINESS FEE**

22 NEW SECTION. **Sec. 14.** The legislature finds the state has a  
23 substantial interest in protecting and preserving the quality of life  
24 for its communities against the adverse secondary effects of live  
25 adult entertainment. The legislature recognizes local governments  
26 have an important role in regulating businesses engaged in live adult  
27 entertainment, including reasonable location and licensing  
28 restrictions, for the purpose of minimizing adverse secondary  
29 effects. However, the adoption of a statewide fee can provide further  
30 assistance to the victims of crimes directly and indirectly resulting  
31 from these businesses.

32 The legislature finds that in Washington state, sexually oriented  
33 businesses featuring live adult entertainment earn more than twenty-  
34 five million dollars per year in revenue. Of the millions of female  
35 victims of human trafficking, seventy percent are trafficked into the  
36 commercial sex industry, including being recruited to work as  
37 hostesses, waitresses, or exotic dancers in sexually oriented  
38 businesses featuring adult entertainment. Exotic dancers are more

1 likely to be victims of sexual violence, including sexual assault and  
2 rape. The office of crime victims' advocacy plays a critical role in  
3 providing support to victims of both human trafficking and sexual  
4 assault.

5 The legislature hereby establishes the sexually oriented business  
6 fee to fund policies and programming for investigating sex crimes and  
7 supporting trafficking and sex crime victims in Washington. The  
8 sexually oriented business fee does not regulate or prohibit any kind  
9 of speech. The legislature's interest in preventing harmful secondary  
10 effects is not related to the suppression of expression in nude  
11 dancing. Citizens are still free to engage in such forms of  
12 expression to the extent it complies with other legally established  
13 time, place, and manner restrictions. Instead, the sexually oriented  
14 business fee offsets the impacts of crime and the other deleterious  
15 effects caused by the presence of sexually oriented businesses in  
16 Washington.

17 NEW SECTION. **Sec. 15.** (1) There is levied and collected a fee  
18 upon the admission to a sexually oriented live adult entertainment  
19 establishment, in an amount equal to four dollars. The fee imposed  
20 under this section must be paid by the patron to the operator of the  
21 establishment. Each operator must collect from the patron the full  
22 amount of the fee in respect to each admission and without respect to  
23 any cover charges that the operator may charge. The fee collected  
24 from the patron by the operator must be paid to the department of  
25 revenue in accordance with RCW 82.32.045.

26 (2) All other applicable provisions of chapter 82.32 RCW have  
27 full force and application with respect to the fee imposed under this  
28 section. The department of revenue must administer this section.

29 (3) Receipts from the fee imposed in this section must be  
30 deposited into the sexually oriented business fee account established  
31 in section 17 of this act.

32 (4) For the purposes of this section, the following definitions  
33 apply:

34 (a) "Adult entertainment" means:

35 (i) Any live exhibition, performance, or dance of any type  
36 conducted by an individual who is unclothed or in such costume,  
37 attire, or clothing as to expose any portion of the female breast  
38 below the top of the areola or any portion of the pubic region, anus,  
39 buttocks, vulva, or genitals;

1 (ii) Any performance of the following acts or of acts which  
2 simulate, or use artificial devices or inanimate objects which  
3 depict:

4 (A) Sexual intercourse, masturbation, sodomy, bestiality, oral  
5 copulation, flagellation, or any sexual acts that are prohibited by  
6 law;

7 (B) The touching, caressing, or fondling of the breast, buttocks,  
8 anus, or genitals; or

9 (C) The displaying of the pubic hair, anus, vulva, or genitals.

10 (b) "Cover charge" means a charge, regardless of its label, to  
11 enter a sexually oriented live adult entertainment establishment or  
12 added to the patron's bill by an operator of an establishment or  
13 otherwise collected after entrance to the establishment, and the  
14 patron is provided the opportunity to enter and view adult  
15 entertainment in exchange for payment of the charge.

16 (c) "Operator" means any person who operates, conducts, or  
17 maintains a sexually oriented adult entertainment establishment.

18 (d) "Patron" means any individual who is admitted to a sexually  
19 oriented live adult entertainment establishment.

20 (e) "Person" means any individual, partnership, corporation,  
21 trust, incorporated or unincorporated association, marital community,  
22 joint venture, governmental entity, or other entity or group of  
23 persons, however organized.

24 (f) "Sexually oriented live adult entertainment establishment"  
25 means an adult cabaret, erotic dance venue, strip club, or any other  
26 commercial premises where live adult entertainment is provided during  
27 at least thirty days within a calendar year or a proportional number  
28 of days if the establishment was not open for a full calendar year.

29 NEW SECTION. **Sec. 16.** (1) The fees required to be collected by  
30 the operator under section 15 of this act, are deemed to be held in  
31 trust by the operator until paid to the department of revenue, and  
32 any operator who appropriates or converts the fees collected to his  
33 or her own use or to any use other than the payment of the fees to  
34 the extent that the money required to be collected is not available  
35 for payment on the due date as prescribed in this chapter is guilty  
36 of a gross misdemeanor.

37 (2) If any operator fails to collect the fees imposed under  
38 section 15 of this act or having collected the fees, fails to pay the  
39 collected fees to the department of revenue in the manner prescribed

1 in section 15 of this act, whether such failure is the result of his  
2 or her own acts or the result of acts or conditions beyond the  
3 operator's control, the operator is nevertheless, personally liable  
4 to the state for the amount of the fees.

5 (3) The amount of the fees, until paid by the patron to the  
6 operator or to the department of revenue, constitutes a debt from the  
7 patron to the operator. Any operator who fails or refuses to collect  
8 the fees as required with intent to violate the provisions of this  
9 chapter or to gain some advantage or benefit, either direct or  
10 indirect, and any patron who refuses to pay any fees due under this  
11 chapter is guilty of a misdemeanor.

12 NEW SECTION. **Sec. 17.** (1) The Washington sexually oriented  
13 business fee account is created in the custody of the state  
14 treasurer. The office of crime victims advocacy within the department  
15 of commerce is authorized as an administrator of the account.  
16 Receipts from the fee imposed in section 15 of this act must be  
17 deposited into the account created in this section. The Washington  
18 sexually oriented business fee account is subject to allotment  
19 procedures under chapter 43.88 RCW, but an appropriation is not  
20 required for expenditures.

21 (2) Funds deposited in the Washington sexually oriented business  
22 fee account must be transferred and used exclusively for the  
23 following purposes:

24 (a) Prior to July 1, 2021:

25 (i) Beginning on June 30, 2017, and each year thereafter, fifty  
26 percent of the funds must be transferred to the Washington state  
27 patrol for use by the Washington state patrol bureau of forensic  
28 laboratory services for the purpose of testing sexual assault kits in  
29 the possession of a law enforcement agency but not submitted for  
30 forensic testing as of July 24, 2015;

31 (ii) Twenty-five percent of the funds must be used by the office  
32 of crime victims advocacy within the department of commerce for the  
33 purposes of providing services or support to victims of sexual abuse,  
34 which must include, subject to sufficient funds deposited in the  
35 Washington sexually oriented business fee account, one hundred fifty  
36 thousand dollars directly allocated annually to the Harborview center  
37 for sexual assault and traumatic stress for the sole purpose of  
38 conducting statewide sexual assault nurse examiner trainings for

1 health care professionals in order to facilitate the providing of  
2 forensic sexual assault examination services; and

3 (iii) Twenty-five percent of the funds must be used by the office  
4 of crime victims advocacy in the department of commerce for the  
5 purposes of providing services and support, including educational and  
6 vocational training opportunities, to victims of human trafficking.

7 (b) Beginning on July 1, 2021:

8 (i) Thirty percent of the funds must be transferred on June 30,  
9 2022, and each year thereafter, to the Washington state patrol bureau  
10 of forensic laboratory services for the purpose of testing sexual  
11 assault kits;

12 (ii) Thirty-five percent of the funds must be used by the office  
13 of crime victims advocacy in the department of commerce for the  
14 purposes of providing services or support to victims of sexual abuse,  
15 which must include, subject to sufficient funds deposited in the  
16 Washington sexually oriented business fee account, one hundred fifty  
17 thousand dollars directly allocated annually to the Harborview center  
18 for sexual assault and traumatic stress for the sole purpose of  
19 conducting statewide sexual assault nurse examiner trainings for  
20 health care professionals in order to facilitate the providing of  
21 forensic sexual assault examination services; and

22 (iii) Thirty-five percent of the funds must be used by the office  
23 of crime victims advocacy in the department of commerce for the  
24 purposes of providing services and support, including educational and  
25 vocational training opportunities, to victims of human trafficking.

26 **Sec. 18.** RCW 82.32.145 and 2015 c 188 s 121 are each amended to  
27 read as follows:

28 (1) Whenever the department has issued a warrant under RCW  
29 82.32.210 for the collection of unpaid trust fund taxes from a  
30 limited liability business entity and that business entity has been  
31 terminated, dissolved, or abandoned, or is insolvent, the department  
32 may pursue collection of the entity's unpaid trust fund taxes,  
33 including penalties and interest on those taxes, against any or all  
34 of the responsible individuals. For purposes of this subsection,  
35 "insolvent" means the condition that results when the sum of the  
36 entity's debts exceeds the fair market value of its assets. The  
37 department may presume that an entity is insolvent if the entity  
38 refuses to disclose to the department the nature of its assets and  
39 liabilities.

1 (2) Personal liability under this section may be imposed for  
2 state and local trust fund taxes.

3 (3)(a) For a responsible individual who is the current or a  
4 former chief executive or chief financial officer, liability under  
5 this section applies regardless of fault or whether the individual  
6 was or should have been aware of the unpaid trust fund tax liability  
7 of the limited liability business entity.

8 (b) For any other responsible individual, liability under this  
9 section applies only if he or she willfully fails to pay or to cause  
10 to be paid to the department the trust fund taxes due from the  
11 limited liability business entity.

12 (4)(a) Except as provided in this subsection (4)(a), a  
13 responsible individual who is the current or a former chief executive  
14 or chief financial officer is liable under this section only for  
15 trust fund tax liability accrued during the period that he or she was  
16 the chief executive or chief financial officer. However, if the  
17 responsible individual had the responsibility or duty to remit  
18 payment of the limited liability business entity's trust fund taxes  
19 to the department during any period of time that the person was not  
20 the chief executive or chief financial officer, that individual is  
21 also liable for trust fund tax liability that became due during the  
22 period that he or she had the duty to remit payment of the limited  
23 liability business entity's taxes to the department but was not the  
24 chief executive or chief financial officer.

25 (b) All other responsible individuals are liable under this  
26 section only for trust fund tax liability that became due during the  
27 period he or she had the responsibility or duty to remit payment of  
28 the limited liability business entity's taxes to the department.

29 (5) Persons described in subsection (3)(b) of this section are  
30 exempt from liability under this section in situations where  
31 nonpayment of the limited liability business entity's trust fund  
32 taxes is due to reasons beyond their control as determined by the  
33 department by rule.

34 (6) Any person having been issued a notice of assessment under  
35 this section is entitled to the appeal procedures under RCW  
36 82.32.160, 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

37 (7) This section does not relieve the limited liability business  
38 entity of its trust fund tax liability or otherwise impair other tax  
39 collection remedies afforded by law.



1 (8) Collection authority and procedures prescribed in this  
2 chapter apply to collections under this section.

3 (9) The definitions in this subsection apply throughout this  
4 section unless the context clearly requires otherwise.

5 (a) "Chief executive" means: The president of a corporation; or  
6 for other entities or organizations other than corporations or if the  
7 corporation does not have a president as one of its officers, the  
8 highest ranking executive manager or administrator in charge of the  
9 management of the company or organization.

10 (b) "Chief financial officer" means: The treasurer of a  
11 corporation; or for entities or organizations other than corporations  
12 or if a corporation does not have a treasurer as one of its officers,  
13 the highest senior manager who is responsible for overseeing the  
14 financial activities of the entire company or organization.

15 (c) "Limited liability business entity" means a type of business  
16 entity that generally shields its owners from personal liability for  
17 the debts, obligations, and liabilities of the entity, or a business  
18 entity that is managed or owned in whole or in part by an entity that  
19 generally shields its owners from personal liability for the debts,  
20 obligations, and liabilities of the entity. Limited liability  
21 business entities include corporations, limited liability companies,  
22 limited liability partnerships, trusts, general partnerships and  
23 joint ventures in which one or more of the partners or parties are  
24 also limited liability business entities, and limited partnerships in  
25 which one or more of the general partners are also limited liability  
26 business entities.

27 (d) "Manager" has the same meaning as in RCW 25.15.006.

28 (e) "Member" has the same meaning as in RCW 25.15.006, except  
29 that the term only includes members of member-managed limited  
30 liability companies.

31 (f) "Officer" means any officer or assistant officer of a  
32 corporation, including the president, vice president, secretary, and  
33 treasurer.

34 (g)(i) "Responsible individual" includes any current or former  
35 officer, manager, member, partner, or trustee of a limited liability  
36 business entity with an unpaid tax warrant issued by the department.

37 (ii) "Responsible individual" also includes any current or former  
38 employee or other individual, but only if the individual had the  
39 responsibility or duty to remit payment of the limited liability

1 business entity's unpaid trust fund tax liability reflected in a tax  
2 warrant issued by the department.

3 (iii) Whenever any taxpayer has one or more limited liability  
4 business entities as a member, manager, or partner, "responsible  
5 individual" also includes any current and former officers, members,  
6 or managers of the limited liability business entity or entities or  
7 of any other limited liability business entity involved directly in  
8 the management of the taxpayer. For purposes of this subsection  
9 (9)(g)(iii), "taxpayer" means a limited liability business entity  
10 with an unpaid tax warrant issued against it by the department.

11 (h) "Trust fund taxes" means taxes collected from purchasers and  
12 held in trust under RCW 82.08.050, including taxes imposed under RCW  
13 82.08.020 and 82.08.150, and the sexually oriented business fees  
14 collected from patrons and held in trust under section 16 of this  
15 act.

16 (i) "Willfully fails to pay or to cause to be paid" means that  
17 the failure was the result of an intentional, conscious, and  
18 voluntary course of action.

19 **Sec. 19.** RCW 43.79A.040 and 2013 c 251 s 5 and 2013 c 88 s 1 are  
20 each reenacted and amended to read as follows:

21 (1) Money in the treasurer's trust fund may be deposited,  
22 invested, and reinvested by the state treasurer in accordance with  
23 RCW 43.84.080 in the same manner and to the same extent as if the  
24 money were in the state treasury, and may be commingled with moneys  
25 in the state treasury for cash management and cash balance purposes.

26 (2) All income received from investment of the treasurer's trust  
27 fund must be set aside in an account in the treasury trust fund to be  
28 known as the investment income account.

29 (3) The investment income account may be utilized for the payment  
30 of purchased banking services on behalf of treasurer's trust funds  
31 including, but not limited to, depository, safekeeping, and  
32 disbursement functions for the state treasurer or affected state  
33 agencies. The investment income account is subject in all respects to  
34 chapter 43.88 RCW, but no appropriation is required for payments to  
35 financial institutions. Payments must occur prior to distribution of  
36 earnings set forth in subsection (4) of this section.

37 (4)(a) Monthly, the state treasurer must distribute the earnings  
38 credited to the investment income account to the state general fund  
39 except under (b), (c), and (d) of this subsection.

1 (b) The following accounts and funds must receive their  
2 proportionate share of earnings based upon each account's or fund's  
3 average daily balance for the period: The Washington promise  
4 scholarship account, the Washington advanced college tuition payment  
5 program account, the accessible communities account, the community  
6 and technical college innovation account, the agricultural local  
7 fund, the American Indian scholarship endowment fund, the foster care  
8 scholarship endowment fund, the foster care endowed scholarship trust  
9 fund, the contract harvesting revolving account, the Washington state  
10 combined fund drive account, the commemorative works account, the  
11 county enhanced 911 excise tax account, the toll collection account,  
12 the developmental disabilities endowment trust fund, the energy  
13 account, the fair fund, the family leave insurance account, the food  
14 animal veterinarian conditional scholarship account, the fruit and  
15 vegetable inspection account, the future teachers conditional  
16 scholarship account, the game farm alternative account, the GET ready  
17 for math and science scholarship account, the Washington global  
18 health technologies and product development account, the grain  
19 inspection revolving fund, the industrial insurance rainy day fund,  
20 the juvenile accountability incentive account, the law enforcement  
21 officers' and firefighters' plan 2 expense fund, the local tourism  
22 promotion account, the multiagency permitting team account, the  
23 pilotage account, the produce railcar pool account, the regional  
24 transportation investment district account, the rural rehabilitation  
25 account, the Washington sexual assault kit account, the Washington  
26 sexually oriented business fee account, the stadium and exhibition  
27 center account, the youth athletic facility account, the self-  
28 insurance revolving fund, the children's trust fund, the Washington  
29 horse racing commission Washington bred owners' bonus fund and  
30 breeder awards account, the Washington horse racing commission class  
31 C purse fund account, the individual development account program  
32 account, the Washington horse racing commission operating account,  
33 the life sciences discovery fund, the Washington state heritage  
34 center account, the reduced cigarette ignition propensity account,  
35 the center for childhood deafness and hearing loss account, the  
36 school for the blind account, the Millersylvania park trust fund, the  
37 public employees' and retirees' insurance reserve fund, and the  
38 radiation perpetual maintenance fund.

39 (c) The following accounts and funds must receive eighty percent  
40 of their proportionate share of earnings based upon each account's or

1 fund's average daily balance for the period: The advanced right-of-  
2 way revolving fund, the advanced environmental mitigation revolving  
3 account, the federal narcotics asset forfeitures account, the high  
4 occupancy vehicle account, the local rail service assistance account,  
5 and the miscellaneous transportation programs account.

6 (d) Any state agency that has independent authority over accounts  
7 or funds not statutorily required to be held in the custody of the  
8 state treasurer that deposits funds into a fund or account in the  
9 custody of the state treasurer pursuant to an agreement with the  
10 office of the state treasurer shall receive its proportionate share  
11 of earnings based upon each account's or fund's average daily balance  
12 for the period.

13 (5) In conformance with Article II, section 37 of the state  
14 Constitution, no trust accounts or funds shall be allocated earnings  
15 without the specific affirmative directive of this section.

16 **PART V - SEXUAL ASSAULT FORENSIC EXAMINATION**  
17 **BEST PRACTICES TASK FORCE**

18 **Sec. 20.** 2015 c 247 s 2 (uncodified) is amended to read as  
19 follows:

20 (1)(a) A legislative task force is established to review best  
21 practice models for managing all aspects of sexual assault  
22 examinations and for reducing the number of untested sexual assault  
23 examination kits in Washington state (~~that were collected prior to~~  
24 ~~the effective date of this section~~). The task force may be known and  
25 cited as the joint legislative task force on sexual assault forensic  
26 examination best practices. The task force is composed of members as  
27 provided in this subsection.

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

30 (ii) The caucus leaders from the house of representatives shall  
31 appoint one member from each of the two largest caucuses of the house  
32 of representatives.

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

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

36 (I) The Washington state patrol;

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

38 (III) The Washington association of prosecuting attorneys;

1 (IV) The Washington defender association or the Washington  
2 association of criminal defense lawyers;  
3 (V) The Washington association of cities;  
4 (VI) The Washington association of county officials;  
5 (VII) The Washington coalition of sexual assault programs;  
6 (VIII) The office of crime victims advocacy;  
7 (IX) The Washington state hospital association;  
8 (X) The Washington state forensic investigations council;  
9 (XI) A public institution of higher education as defined in RCW  
10 28B.10.016; and  
11 (XII) A private higher education institution as defined in RCW  
12 28B.07.020; and  
13 (B) Two members representing survivors of sexual assault.  
14 (b) The task force shall choose two cochairs from among its  
15 legislative membership. The legislative membership shall convene the  
16 initial meeting of the task force.  
17 (2) The duties of the task force include, but are not limited to:  
18 (a) Researching and determining the number of untested sexual  
19 assault examination kits in Washington state;  
20 (b) Researching the locations where the untested sexual assault  
21 examination kits are stored;  
22 (c) Researching, reviewing, and making recommendations regarding  
23 legislative policy options for reducing the number of untested sexual  
24 assault examination kits;  
25 (d) Researching the best practice models both in state and from  
26 other states for collaborative responses to victims of sexual assault  
27 from the point the sexual assault examination kit is collected to the  
28 conclusion of the investigation and providing recommendations  
29 regarding any existing gaps in Washington and resources that may be  
30 necessary to address those gaps; ~~((and))~~  
31 (e) Researching, identifying, and making recommendations for  
32 securing nonstate funding for testing the sexual assault examination  
33 kits, and reporting on progress made toward securing such funding;  
34 (f) Reviewing and recommending best practices for notifying  
35 victims regarding the status of sexual assault examination kits and  
36 testing results;  
37 (g) Reviewing the information and recommendations reported by the  
38 Washington association of sheriffs and police chiefs pursuant to  
39 section 11 of this act;

1        (h) Consulting with law enforcement, victims' advocates, and  
2 forensic professionals to evaluate the lessons learned from the grant  
3 program under section 11 of this act; and

4        (i) Evaluating other issues relating to evaluating and improving  
5 best practices for tracking and testing sexual assault examination  
6 kits and conducting related investigations in Washington.

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

10        (4) Legislative members of the task force must be reimbursed for  
11 travel expenses in accordance with RCW 44.04.120. Nonlegislative  
12 members, except those representing an employer or organization, are  
13 entitled to be reimbursed for travel expenses in accordance with RCW  
14 43.03.050 and 43.03.060.

15        (5) The expenses of the task force must be paid jointly by the  
16 senate and the house of representatives. Task force expenditures are  
17 subject to approval by the senate facilities and operations committee  
18 and the house of representatives executive rules committee, or their  
19 successor committees.

20        (6) The first meeting of the task force must occur prior to  
21 October 1, 2015. The task force shall submit a preliminary report  
22 regarding its initial findings and recommendations to the appropriate  
23 committees of the legislature and the governor no later than December  
24 1, 2015.

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

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

29        (9) This section expires (~~June 30, 2018~~) October 1, 2022.

30        NEW SECTION. Sec. 21. Sections 14 through 17 of this act  
31 constitute a new chapter in Title 82 RCW.

32        NEW SECTION. Sec. 22. Sections 14 through 17 of this act take  
33 effect October 1, 2016.

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