
HOUSE BILL 1109

State of Washington

65th Legislature

2017 Regular Session

By Representatives Orwall, McCabe, Griffey, Hayes, McBride, Frame, Goodman, Klippert, Stanford, Stambaugh, Jinkins, Fey, Harmsworth, Dolan, Sells, Muri, Gregerson, McDonald, Wylie, Kilduff, Kloba, Tarleton, Pollet, Farrell, Kagi, Riccelli, Senn, Peterson, Bergquist, and Doglio

Read first time 01/11/17. Referred to Committee on Public Safety.

1 AN ACT Relating to supporting victims of sexual assault; amending
2 RCW 82.32.145 and 43.330.470; amending 2015 c 247 s 2 (uncodified);
3 reenacting and amending RCW 43.84.092; adding a new section to
4 chapter 43.10 RCW; adding a new section to chapter 70.125 RCW; adding
5 new sections to chapter 43.101 RCW; adding a new chapter to Title 82
6 RCW; creating a new section; prescribing penalties; providing an
7 effective date; and providing expiration dates.

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

9 **PART I - COLD CASE INVESTIGATIONS**

10 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.10
11 RCW to read as follows:

12 (1) The attorney general may: (a) Support law enforcement
13 officials in the investigation of cold cases involving sexual
14 assault; (b) support prosecutors in the litigation of cold cases
15 involving sexual assault; and (c) conduct seminars and training
16 sessions on the prosecution of cold cases involving sexual assault.

17 (2) Except as otherwise authorized in this chapter, support
18 provided in subsection (1) of this section must be upon agreement
19 with the local law enforcement agency or prosecuting attorney. An
20 agreement may include assistance with investigations or prosecutions,

1 conducting the investigations or prosecutions on behalf of the agency
2 or prosecuting attorney, or both, when deemed appropriate by the
3 attorney general and applicable entity. If the attorney general is
4 authorized by the prosecuting attorney to prosecute a case or cases
5 on his or her behalf, the attorney general shall have the same powers
6 as would otherwise be vested in the prosecuting attorney under the
7 law. An agreement authorizing the attorney general to prosecute a
8 case or cases on behalf of the prosecuting attorney shall be
9 communicated in writing to the attorney general as provided for in
10 RCW 43.10.232 (2) and (3).

11 (3) The attorney general is encouraged to seek federal and other
12 grant funds to support investigations and prosecutions of cold cases
13 involving sexual assault, particularly those cases tied to
14 unsubmitted sexual assault kits.

15 (4) The attorney general shall, to the extent feasible, consult
16 with and utilize community-based victim advocates when supporting law
17 enforcement or prosecutors under this section.

18 (5) For the purposes of this section:

19 (a) "Cold case" refers to any criminal investigation where
20 initial investigative leads have been exhausted or where significant
21 time has passed without investigative results or the filing of
22 charges. "Cold case" includes, but it not limited to, cases tied to
23 previously unsubmitted sexual assault kits.

24 (b) "Unsubmitted sexual assault kit" has the same meaning as
25 provided in section 2 of this act.

26 **PART II - WASHINGTON SEXUAL ASSAULT KIT INITIATIVE PILOT PROJECT**

27 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.125
28 RCW to read as follows:

29 (1) Subject to the availability of amounts appropriated for this
30 specific purpose, the Washington sexual assault initiative pilot
31 project is created within the office of the attorney general. The
32 attorney general shall administer the project.

33 (2) The project is created for the purpose of providing funding
34 through a competitive grant program to support multidisciplinary
35 community response teams engaged in seeking a just resolution to
36 sexual assault cases resulting from evidence found in previously
37 unsubmitted sexual assault kits.

1 (3) In administering the project, the attorney general has the
2 following powers and duties:

3 (a) Design and implement the grant project with the elements
4 included in this section;

5 (b) Screen and select eligible applicants to receive grants;

6 (c) Award grants and disburse funds to two eligible applicants,
7 one located in western Washington and one located in eastern
8 Washington;

9 (d) Adopt necessary policies and procedures to implement and
10 administer the program;

11 (e) Monitor use of grant funds and compliance with the grant
12 requirements;

13 (f) Create and implement reporting requirements for grant
14 recipients;

15 (g) Facilitate the hosting of a sexual assault kit summit in the
16 state of Washington through a grant recipient or directly through the
17 office of the attorney general, subject to the availability of funds,
18 which may include a combination of public and private dollars
19 allocated for the particular purpose; and

20 (h) Report to the appropriate committees of the legislature, the
21 joint legislative task force on sexual assault forensic examination
22 best practices, and the governor by December 1, 2017, and each
23 December 1st of each subsequent year the project is funded and
24 operating, regarding the status of grant awards, the progress of the
25 grant recipients toward the identified goals in this section, the
26 data required by subsection (4) of this section, and any other
27 relevant information or recommendations related to the project or
28 sexual assault kit policies.

29 (4) Grant recipients must:

30 (a) Perform an inventory of all unsubmitted sexual assault kits
31 in the jurisdiction's possession regardless of where they are stored
32 and submit those sexual assault kits for forensic analysis through
33 the Washington state patrol or another laboratory with the permission
34 of the Washington state patrol;

35 (b) Establish a multidisciplinary cold case or sexual assault
36 investigation unit or units for follow-up investigations and
37 prosecutions resulting from evidence from the testing of previously
38 unsubmitted sexual assault kits. Cold case or sexual assault
39 investigative units must: Include prosecutors, law enforcement, and
40 victim advocates for the duration of the project; use victim-

1 centered, trauma-informed protocols, including for victim
2 notification; and use protocols and policies established by the
3 attorney general. The grant funds may support personnel costs,
4 including hiring and overtime, to allow for adequate follow-up
5 investigations and prosecutions. Grant awards must be prioritized for
6 eligible applicants with a commitment to colocate assigned
7 prosecutors, law enforcement, and victim advocates for the duration
8 of the grant program;

9 (c) Require participants in the multidisciplinary cold case or
10 sexual assault investigation unit or units to participate in and
11 complete specialized training for victim-centered, trauma-informed
12 investigation and prosecutions;

13 (d) Identify and address individual level, organizational level,
14 and systemic factors that lead to unsubmitted sexual assault kits in
15 the jurisdiction and development of a comprehensive strategy to
16 address the issues, including effecting changes in practice,
17 protocol, and organizational culture, and implementing evidence-
18 based, victim-centered, trauma-informed practices and protocols;

19 (e) Appoint an informed representative to attend meetings of and
20 provide information and assistance to the joint legislative task
21 force on sexual assault forensic examination best practices;

22 (f) Identify and maintain consistent, experienced, and committed
23 leadership of their sexual assault kit initiative; and

24 (g) Track and report the following data to the attorney general,
25 in addition to any data required by the attorney general: The number
26 of kits inventoried; the dates collected and submitted for testing;
27 the number of kits tested; the number of kits with information
28 eligible for entry into the combined DNA index system; the number of
29 combined DNA index system hits; the number of identified suspects;
30 including serial perpetrators; the number of investigations conducted
31 and cases reviewed; the number of charges filed; and the number of
32 convictions.

33 (5) Subject to the availability of funds, the project may also
34 allocate funds for grant recipients to:

35 (a) Create and employ training in relation to sexual assault
36 evidence, victimization and trauma response, and other related topics
37 to improve the quality and outcomes of sexual assault investigations
38 and prosecutions;

39 (b) Enhance victim services and support for past and current
40 victims of sexual assault; or

1 (c) Develop evidence collection, retention, victim notification,
2 and other protocols needed to optimize data sharing, case
3 investigation, prosecution, and victim support.

4 (6) For the purposes of this section:

5 (a) "Eligible applicants" include: Law enforcement agencies,
6 units of local government, or combination of units of local
7 government, prosecutor's offices, or a governmental nonlaw
8 enforcement agency acting as fiscal agent for one of the previously
9 listed types of eligible applicants. A combination of jurisdictions,
10 including contiguous jurisdictions of multiple towns, cities, or
11 counties, may create a task force or other entity for the purposes of
12 applying for and receiving a grant, provided that the relevant
13 prosecutors and law enforcement agencies are acting in partnership in
14 complying with the grant requirements.

15 (b) "Project" means the Washington sexual assault initiative
16 pilot project created in this section.

17 (c) "Unsubmitted sexual assault kit" are sexual assault kits that
18 have not been submitted to a forensic laboratory for testing with the
19 combined DNA index system-eligible DNA methodologies as of the
20 effective date of the mandatory testing law in RCW 70.125.090.
21 Unsubmitted sexual assault kits includes partially tested sexual
22 assault kits, which are sexual assault kits that have only been
23 subjected to serological testing, or that have previously been tested
24 only with noncombined DNA index system-eligible DNA methodologies.
25 The project does not include untested sexual assault kits that have
26 been submitted to forensic labs for testing with combined DNA index
27 system-eligible DNA methodologies but are delayed for testing as a
28 result of a backlog of work in the laboratory.

29 **Sec. 3.** 2015 c 247 s 2 (uncodified) is amended to read as
30 follows:

31 (1)(a) ((A)) The joint legislative task force on sexual assault
32 forensic examination best practices is established ((to review)) for
33 the purpose of reviewing best practice models for managing all
34 aspects of sexual assault examinations and for reducing the number of
35 untested sexual assault examination kits in Washington state that
36 were collected prior to the effective date of this section.

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

1 (ii) The caucus leaders from the house of representatives shall
2 appoint one member from each of the two largest caucuses of the house
3 of representatives.

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

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

7 (I) The Washington state patrol;

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

9 (III) The Washington association of prosecuting attorneys;

10 (IV) The Washington defender association or the Washington
11 association of criminal defense lawyers;

12 (V) The Washington association of cities;

13 (VI) The Washington association of county officials;

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

15 (VIII) The office of crime victims advocacy;

16 (IX) The Washington state hospital association;

17 (X) The Washington state forensic investigations council;

18 (XI) A public institution of higher education as defined in RCW
19 28B.10.016; (~~and~~)

20 (XII) A private higher education institution as defined in RCW
21 28B.07.020; and

22 (XIII) The office of the attorney general; and

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

24 (b) The task force shall choose two cochairs from among its
25 legislative membership. The legislative membership shall convene the
26 initial meeting of the task force.

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

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

30 (b) Researching the locations where the untested sexual assault
31 examination kits are stored;

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

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

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

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

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

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

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

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

23 (8) The task force shall report its findings and recommendations
24 to the appropriate committees of the legislature and the governor by
25 September 30, 2016, and by ((September 30th)) December 1st of ((each
26 subsequent)) the following year.

27 (9) This section expires June 30, 2018.

28 **PART III - TRAINING**

29 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.101
30 RCW to read as follows:

31 (1) The commission shall provide ongoing specialized, intensive,
32 and integrative training for persons responsible for investigating
33 sexual assault cases involving adult victims. The training must be
34 based on a victim-centered, trauma-informed approach to responding to
35 sexual assault. Among other subjects, the training must include
36 content on the neurobiology of trauma and trauma-informed
37 interviewing, counseling, and investigative techniques.

1 (2) The training must: Be based on research-based practices and
2 standards; offer participants an opportunity to practice interview
3 skills and receive feedback from instructors; minimize the trauma of
4 all persons who are interviewed during abuse investigations; provide
5 methods of reducing the number of investigative interviews necessary
6 whenever possible; assure, to the extent possible, that investigative
7 interviews are thorough, objective, and complete; recognize needs of
8 special populations; recognize the nature and consequences of
9 victimization; require investigative interviews to be conducted in a
10 manner most likely to permit the interviewed persons the maximum
11 emotional comfort under the circumstances; address record retention
12 and retrieval; and address documentation of investigative interviews.

13 (3) In developing the training, the commission shall seek advice
14 from the Washington association of sheriffs and police chiefs, the
15 Washington coalition of sexual assault programs, and experts on
16 sexual assault and the neurobiology of trauma. The commission shall
17 consult with the Washington association of prosecuting attorneys in
18 an effort to design training containing consistent elements for all
19 professionals engaged in interviewing and interacting with sexual
20 assault victims in the criminal justice system.

21 (4) The commission shall develop the training and begin offering
22 it by July 1, 2018. Officers assigned to regularly investigate sexual
23 assault involving adult victims shall complete the training within
24 one year of being assigned or by July 1, 2020, whichever is later.

25 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.101
26 RCW to read as follows:

27 By July 1, 2018, the commission shall incorporate victim-
28 centered, trauma-informed approaches to policing in the basic law
29 enforcement training curriculum. In modifying the curriculum, the
30 commission shall seek advice from the Washington coalition of sexual
31 assault programs and other experts on sexual assault and the
32 neurobiology of trauma.

33 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.101
34 RCW to read as follows:

35 (1) By July 1, 2018, the commission shall develop training on a
36 victim-centered, trauma-informed approach to interacting with victims
37 and responding to sexual assault calls. The curriculum must: Be
38 designed for commissioned patrol officers not regularly assigned to

1 investigate sexual assault cases; be designed for deployment and use
2 within individual law enforcement agencies; include features allowing
3 for it to be used in different environments, which may include
4 multimedia or video components; allow for law enforcement agencies to
5 host it in small segments at different times over several days or
6 weeks, including roll calls. The training must include components on
7 available resources for victims including, but not limited to,
8 material on and references to community-based victim advocates.

9 (2) In developing the training, the commission shall seek advice
10 from the Washington association of sheriffs and police chiefs, the
11 Washington coalition of sexual assault programs, and experts on
12 sexual assault and the neurobiology of trauma.

13 (3) Beginning in 2018, all law enforcement agencies shall
14 annually host the training for commissioned peace officers. All law
15 enforcement agencies shall, to the extent feasible, consult with and
16 feature local community-based victim advocates during the training.

17 **PART IV - FUNDING**

18 NEW SECTION. **Sec. 7.** The legislature finds the state has a
19 substantial interest in protecting and preserving the quality of life
20 for its communities against the adverse secondary effects of live
21 adult entertainment. The legislature recognizes local governments
22 have an important role in regulating businesses engaged in live adult
23 entertainment, including reasonable location and licensing
24 restrictions, for the purpose of minimizing adverse secondary
25 effects. However, the adoption of a statewide fee can provide further
26 assistance to the victims of crimes directly and indirectly resulting
27 from these businesses.

28 The legislature finds that in Washington state, sexually oriented
29 businesses featuring live adult entertainment earn more than twenty-
30 five million dollars per year in revenue. Of the millions of female
31 victims of human trafficking, seventy percent are trafficked into the
32 commercial sex industry, including being recruited to work as
33 hostesses, waitresses, or exotic dancers in sexually oriented
34 businesses featuring adult entertainment. Exotic dancers are more
35 likely to be victims of sexual violence, including sexual assault and
36 rape. The office of crime victims' advocacy plays a critical role in
37 providing support to victims of both human trafficking and sexual
38 assault.

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

13 NEW SECTION. **Sec. 8.** (1) There is levied and collected a fee
14 upon the admission to a sexually oriented live adult entertainment
15 establishment, in an amount equal to four dollars. The fee imposed
16 under this section must be paid by the patron to the operator of the
17 establishment. Each operator must collect from the patron the full
18 amount of the fee in respect to each admission and without respect to
19 any cover charges that the operator may charge. The fee collected
20 from the patron by the operator must be paid to the department of
21 revenue in accordance with RCW 82.32.045.

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

25 (3) Receipts from the fee imposed in this section must be
26 deposited into the sexually oriented business fee account established
27 in section 10 of this act.

28 (4) For the purposes of this section:

29 (a) "Adult entertainment" means:

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

35 (ii) Any performance of the following acts or of acts which
36 simulate, or use artificial devices or inanimate objects which
37 depict:

1 (A) Sexual intercourse, masturbation, sodomy, bestiality, oral
2 copulation, flagellation, or any sexual acts that are prohibited by
3 law;

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

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

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

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

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

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

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

26 NEW SECTION. **Sec. 9.** (1) The fees required to be collected by
27 the operator under section 8 of this act, are deemed to be held in
28 trust by the operator until paid to the department of revenue, and
29 any operator who appropriates or converts the fees collected to his
30 or her own use or to any use other than the payment of the fees to
31 the extent that the money required to be collected is not available
32 for payment on the due date as prescribed in this chapter is guilty
33 of a gross misdemeanor.

34 (2) If any operator fails to collect the fees imposed under
35 section 8 of this act or having collected the fees, fails to pay the
36 collected fees to the department of revenue in the manner prescribed
37 in section 8 of this act, whether such failure is the result of his
38 or her own acts or the result of acts or conditions beyond the

1 operator's control, the operator is nevertheless, personally liable
2 to the state for the amount of the fees.

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

10 NEW SECTION. **Sec. 10.** (1) The Washington sexually oriented
11 business fee account is created in the state treasury. All revenues
12 from the sexually oriented live adult entertainment business
13 admission fee established in section 8 of this act must be deposited
14 into the account. Moneys in the account may only be spent after
15 appropriation.

16 (2) The legislature must prioritize appropriations from the
17 account for: The Washington sexual assault kit initiative pilot
18 project created in section 2 of this act; the office of crime victims
19 advocacy for the purpose of providing support and services, including
20 educational and vocational training, to victims of sexual assault and
21 trafficking; victim-centered, trauma-informed training for
22 prosecutors, law enforcement, and victim advocates, including, but
23 not limited to, the training in sections 4 through 6 of this act; the
24 Washington state patrol for the purpose of funding the statewide
25 sexual assault kit tracking system and funding the forensic analysis
26 of sexual assault kits.

27 **Sec. 11.** RCW 82.32.145 and 2015 c 188 s 121 are each amended to
28 read as follows:

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

1 refuses to disclose to the department the nature of its assets and
2 liabilities.

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

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

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

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

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

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

36 (6) Any person having been issued a notice of assessment under
37 this section is entitled to the appeal procedures under RCW
38 82.32.160, 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

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

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

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

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

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

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

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

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

34 (f) "Officer" means any officer or assistant officer of a
35 corporation, including the president, vice president, secretary, and
36 treasurer.

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

1 (ii) "Responsible individual" also includes any current or former
2 employee or other individual, but only if the individual had the
3 responsibility or duty to remit payment of the limited liability
4 business entity's unpaid trust fund tax liability reflected in a tax
5 warrant issued by the department.

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

14 (h) "Trust fund taxes" means taxes collected from purchasers and
15 held in trust under RCW 82.08.050, including taxes imposed under RCW
16 82.08.020 and 82.08.150, and the sexually oriented business fees
17 collected from patrons and held in trust under section 9 of this act.

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

21 **Sec. 12.** RCW 43.330.470 and 2016 c 173 s 9 are each amended to
22 read as follows:

23 (1) The Washington sexual assault kit program is created within
24 the department for the purpose of accepting private funds
25 (~~conducting~~) to fund forensic analysis of sexual assault kits in
26 the possession of law enforcement agencies but not submitted for
27 analysis as of July 24, 2015, and to fund other related programs
28 aimed at improving the public's response to sexual assault. The
29 director may accept gifts, grants, donations, or moneys from any
30 source for deposit in the Washington sexual assault kit account
31 created under subsection (2) of this section.

32 (2) The Washington sexual assault kit account is created in the
33 custody of the state treasurer. Funds deposited in the Washington
34 sexual assault kit account may be used for the Washington sexual
35 assault kit program established under this section. The Washington
36 sexual assault kit account is subject to allotment procedures under
37 chapter 43.88 RCW, but an appropriation is not required for
38 expenditures.

1 (3) Except when otherwise specified, public funds deposited in
2 the Washington sexual assault kit account must be transferred and
3 used exclusively for the following:

4 (a) Eighty-five percent of the funds for the Washington state
5 patrol bureau of forensic laboratory services for the purpose of
6 conducting forensic analysis of sexual assault kits in the possession
7 of law enforcement agencies but not submitted for forensic analysis
8 as of July 24, 2015; and

9 (b) Fifteen percent of the funds for the office of crime victims
10 advocacy in the department for the purpose of funding grants for
11 sexual assault nurse examiner services and training.

12 (4)(a) Except as otherwise provided in (b) of this subsection,
13 private funds donated to and deposited in the Washington sexual
14 assault kit account must be transferred and used exclusively for the
15 following:

16 (i) Thirty percent for attorney general for the purpose of
17 funding the sexual assault initiative pilot project created in
18 section 2 of this act;

19 (ii) Thirty percent for the Washington state patrol bureau of
20 forensic laboratory services for the purpose of conducting forensic
21 analysis of sexual assault kits in the possession of law enforcement
22 agencies but not submitted for forensic analysis as of July 24, 2015,
23 unless the Washington state patrol bureau of forensic laboratory
24 services deems that the funds are not necessary for this purpose, in
25 which case the funds shall be divided equally for the purposes
26 outlined in (b)(i), (iii), and (iv) of this subsection;

27 (iii) Thirty percent for the criminal justice training commission
28 for the training in sections 4 through 6 of this act;

29 (iv) Ten percent for the office of crime victims advocacy in the
30 department for the purpose of providing services to victims of sexual
31 assault and training for professionals interacting with and providing
32 services to victims of sexual assault.

33 (b) With the consent of the department, a grantor of funds may
34 enter into an agreement with the department for a different
35 allocation of funds specified in (a) of this subsection, provided
36 that the funds are distributed for the purpose of the program created
37 in this section. Within thirty days of entering into an agreement
38 under this subsection (5)(b), the department shall notify the sexual
39 assault forensic examination best practices task force and the
40 appropriate committees of the legislature.

1 (6) This section expires June 30, 2022.

2 **Sec. 13.** RCW 43.84.092 and 2016 c 194 s 5, 2016 c 161 s 20, and
3 2016 c 112 s 4 are each reenacted and amended to read as follows:

4 (1) All earnings of investments of surplus balances in the state
5 treasury shall be deposited to the treasury income account, which
6 account is hereby established in the state treasury.

7 (2) The treasury income account shall be utilized to pay or
8 receive funds associated with federal programs as required by the
9 federal cash management improvement act of 1990. The treasury income
10 account is subject in all respects to chapter 43.88 RCW, but no
11 appropriation is required for refunds or allocations of interest
12 earnings required by the cash management improvement act. Refunds of
13 interest to the federal treasury required under the cash management
14 improvement act fall under RCW 43.88.180 and shall not require
15 appropriation. The office of financial management shall determine the
16 amounts due to or from the federal government pursuant to the cash
17 management improvement act. The office of financial management may
18 direct transfers of funds between accounts as deemed necessary to
19 implement the provisions of the cash management improvement act, and
20 this subsection. Refunds or allocations shall occur prior to the
21 distributions of earnings set forth in subsection (4) of this
22 section.

23 (3) Except for the provisions of RCW 43.84.160, the treasury
24 income account may be utilized for the payment of purchased banking
25 services on behalf of treasury funds including, but not limited to,
26 depository, safekeeping, and disbursement functions for the state
27 treasury and affected state agencies. The treasury income account is
28 subject in all respects to chapter 43.88 RCW, but no appropriation is
29 required for payments to financial institutions. Payments shall occur
30 prior to distribution of earnings set forth in subsection (4) of this
31 section.

32 (4) Monthly, the state treasurer shall distribute the earnings
33 credited to the treasury income account. The state treasurer shall
34 credit the general fund with all the earnings credited to the
35 treasury income account except:

36 (a) The following accounts and funds shall receive their
37 proportionate share of earnings based upon each account's and fund's
38 average daily balance for the period: The aeronautics account, the
39 aircraft search and rescue account, the Alaskan Way viaduct

1 replacement project account, the brownfield redevelopment trust fund
2 account, the budget stabilization account, the capital vessel
3 replacement account, the capitol building construction account, the
4 Cedar River channel construction and operation account, the Central
5 Washington University capital projects account, the charitable,
6 educational, penal and reformatory institutions account, the Chehalis
7 basin account, the cleanup settlement account, the Columbia river
8 basin water supply development account, the Columbia river basin
9 taxable bond water supply development account, the Columbia river
10 basin water supply revenue recovery account, the common school
11 construction fund, the community forest trust account, the connecting
12 Washington account, the county arterial preservation account, the
13 county criminal justice assistance account, the deferred compensation
14 administrative account, the deferred compensation principal account,
15 the department of licensing services account, the department of
16 retirement systems expense account, the developmental disabilities
17 community trust account, the diesel idle reduction account, the
18 drinking water assistance account, the drinking water assistance
19 administrative account, the drinking water assistance repayment
20 account, the Eastern Washington University capital projects account,
21 the Interstate 405 express toll lanes operations account, the
22 education construction fund, the education legacy trust account, the
23 election account, the electric vehicle charging infrastructure
24 account, the energy freedom account, the energy recovery act account,
25 the essential rail assistance account, The Evergreen State College
26 capital projects account, the federal forest revolving account, the
27 ferry bond retirement fund, the freight mobility investment account,
28 the freight mobility multimodal account, the grade crossing
29 protective fund, the public health services account, the high
30 capacity transportation account, the state higher education
31 construction account, the higher education construction account, the
32 highway bond retirement fund, the highway infrastructure account, the
33 highway safety fund, the high occupancy toll lanes operations
34 account, the hospital safety net assessment fund, the industrial
35 insurance premium refund account, the judges' retirement account, the
36 judicial retirement administrative account, the judicial retirement
37 principal account, the local leasehold excise tax account, the local
38 real estate excise tax account, the local sales and use tax account,
39 the marine resources stewardship trust account, the medical aid
40 account, the mobile home park relocation fund, the money-purchase

1 retirement savings administrative account, the money-purchase
2 retirement savings principal account, the motor vehicle fund, the
3 motorcycle safety education account, the multimodal transportation
4 account, the multiuse roadway safety account, the municipal criminal
5 justice assistance account, the natural resources deposit account,
6 the oyster reserve land account, the pension funding stabilization
7 account, the perpetual surveillance and maintenance account, the
8 pollution liability insurance agency underground storage tank
9 revolving account, the public employees' retirement system plan 1
10 account, the public employees' retirement system combined plan 2 and
11 plan 3 account, the public facilities construction loan revolving
12 account beginning July 1, 2004, the public health supplemental
13 account, the public works assistance account, the Puget Sound capital
14 construction account, the Puget Sound ferry operations account, the
15 Puget Sound taxpayer accountability account, the real estate
16 appraiser commission account, the recreational vehicle account, the
17 regional mobility grant program account, the resource management cost
18 account, the rural arterial trust account, the rural mobility grant
19 program account, the rural Washington loan fund, the Washington
20 sexually oriented business fee account, the site closure account, the
21 skilled nursing facility safety net trust fund, the small city
22 pavement and sidewalk account, the special category C account, the
23 special wildlife account, the state employees' insurance account, the
24 state employees' insurance reserve account, the state investment
25 board expense account, the state investment board commingled trust
26 fund accounts, the state patrol highway account, the state route
27 number 520 civil penalties account, the state route number 520
28 corridor account, the state wildlife account, the supplemental
29 pension account, the Tacoma Narrows toll bridge account, the
30 teachers' retirement system plan 1 account, the teachers' retirement
31 system combined plan 2 and plan 3 account, the tobacco prevention and
32 control account, the tobacco settlement account, the toll facility
33 bond retirement account, the transportation 2003 account (nickel
34 account), the transportation equipment fund, the transportation fund,
35 the transportation future funding program account, the transportation
36 improvement account, the transportation improvement board bond
37 retirement account, the transportation infrastructure account, the
38 transportation partnership account, the traumatic brain injury
39 account, the tuition recovery trust fund, the University of
40 Washington bond retirement fund, the University of Washington

1 building account, the volunteer firefighters' and reserve officers'
2 relief and pension principal fund, the volunteer firefighters' and
3 reserve officers' administrative fund, the Washington judicial
4 retirement system account, the Washington law enforcement officers'
5 and firefighters' system plan 1 retirement account, the Washington
6 law enforcement officers' and firefighters' system plan 2 retirement
7 account, the Washington public safety employees' plan 2 retirement
8 account, the Washington school employees' retirement system combined
9 plan 2 and 3 account, the Washington state health insurance pool
10 account, the Washington state patrol retirement account, the
11 Washington State University building account, the Washington State
12 University bond retirement fund, the water pollution control
13 revolving administration account, the water pollution control
14 revolving fund, the Western Washington University capital projects
15 account, the Yakima integrated plan implementation account, the
16 Yakima integrated plan implementation revenue recovery account, and
17 the Yakima integrated plan implementation taxable bond account.
18 Earnings derived from investing balances of the agricultural
19 permanent fund, the normal school permanent fund, the permanent
20 common school fund, the scientific permanent fund, the state
21 university permanent fund, and the state reclamation revolving
22 account shall be allocated to their respective beneficiary accounts.

23 (b) Any state agency that has independent authority over accounts
24 or funds not statutorily required to be held in the state treasury
25 that deposits funds into a fund or account in the state treasury
26 pursuant to an agreement with the office of the state treasurer shall
27 receive its proportionate share of earnings based upon each account's
28 or fund's average daily balance for the period.

29 (5) In conformance with Article II, section 37 of the state
30 Constitution, no treasury accounts or funds shall be allocated
31 earnings without the specific affirmative directive of this section.

32 NEW SECTION. **Sec. 14.** Sections 8 through 10 of this act
33 constitute a new chapter in Title 82 RCW.

34 NEW SECTION. **Sec. 15.** Sections 8 through 10 of this act take
35 effect October 1, 2017.

1 NEW SECTION. **Sec. 16.** Section 12 of this act expires June 30,
2 2022.

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