
Public Safety Committee

HB 1109

Brief Description: Supporting victims of sexual assault.

Sponsors: 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.

Brief Summary of Bill

- Creates the Washington Sexual Assault Kit Initiative (SAKI) Pilot Project to fund the creation of locally-based multidisciplinary community response teams to conduct cold case investigations tied to previously unsubmitted sexual assault kits (SAKs).
- Authorizes the Attorney General to assist law enforcement officials and prosecutors with investigations and prosecutions of cold cases tied to previously unsubmitted SAKs.
- Requires the Criminal Justice Training Commission to incorporate into existing training and develop new training with a victim-centered, trauma-informed approach.
- Creates a \$4 fee per admission collected from patrons by operators of a sexually oriented live adult entertainment establishments to fund the Washington SAKI Pilot Project, specified services for victims, and other items.

Hearing Date: 1/17/17

Staff: Kelly Leonard (786-7147).

Background:

Sexual Assault Kits. After a person has been the victim of a sexual assault, the person may undergo a forensic examination for the purpose of collecting any evidence that was left behind during the assault. The doctor or nurse conducting the examination preserves the evidence using a sexual assault forensic examination kit, also commonly referred to as a sexual assault kit

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(SAK) or rape kit. After the examination, custody of a SAK may be transferred to a law enforcement agency to be utilized during an investigation and subsequent criminal prosecution.

Prior to 2015, law enforcement agencies and prosecutors had discretion to send SAKs to forensic laboratories for testing, but were not required to do so. In 2015 the Legislature passed Substitute House Bill 1068 (SHB 1068), which requires a law enforcement agency to submit a SAK to the Washington State Patrol (WSP) Crime Laboratory within 30 days of receiving it, provided that the victim has consented to the testing. Consent is not a condition of submission if the SAK was collected from a non-emancipated minor. The requirement to test SAKs is prospective as of July 24, 2015, meaning it does not apply to previously unsubmitted SAKs.

Criminal Justice Training Commission. The Criminal Justice Training Commission (CJTC) provides basic law enforcement training, and educational programs for law enforcement, corrections, and other public safety professionals in Washington. The CJTC also certifies, and when necessary de-certifies, peace officers.

Basic law enforcement officer training is generally required of all law enforcement officers, with the exception of volunteers, and reserve officers employed in Washington. The Basic Law Enforcement Academy (BLEA) consists of a 720-hour program covering a wide variety of subjects including: criminal law and procedures, traffic enforcement, cultural awareness, communication and writing skills, emergency vehicle operations, firearms, crisis intervention, patrol procedures, and criminal investigation and defensive tactics.

In addition to the BLEA, the CJTC provides specialized training to commissioned officers on a range of subjects, including, for example, interviewing children in child abuse cases and neglect cases.

Private Funds for Sexual Assault Kits. The Washington SAK Program is created within the Department of Commerce for the purpose of accepting private funds until June 1, 2022. Donated funds are deposited into the Washington SAK Account and used exclusively for the following:

- 85 percent for the WSP for testing SAKs in the possession of a law enforcement agency but not submitted for forensic testing as of July 24, 2015; and
- 15 percent for the Office of Crime Victim Advocacy (OCVA) for Sexual Assault Nurse Examiner services and training.

Summary of Bill:

Unsubmitted Sexual Assault Kits. "Unsubmitted sexual assault kits" are SAKs that have not been submitted to a forensic laboratory for testing with the CODIS-eligible DNA methodologies as of July 24, 2015, the effective date of the mandatory testing law in SHB 1068 (2015). Unsubmitted SAKs may include partially tested SAKs, which are SAKs that have only been subjected to serological testing, or that have previously been tested only with non-CODIS-eligible DNA methodologies. The term does not include untested SAKs that have been submitted to forensic labs for testing with CODIS-eligible DNA methodologies but are delayed for testing as a result of a backlog of work in the laboratory.

Washington Sexual Assault Kit Initiative Pilot Project. Subject to the availability of amounts appropriated for this specific purpose, the Washington Sexual Assault Kit Initiative (SAKI) Pilot

Project is created for the purpose of providing funding through a competitive grant program to fund multidisciplinary community response teams seeking resolutions to cases tied to previously unsubmitted SAKs. The Attorney General is required to administer the SAKI Pilot Project.

Two grants must be given, one in western Washington and one in eastern Washington, to:

- a law enforcement agency;
- a unit of local government;
- a combination of units of local government;
- a prosecutor's office; or
- a governmental non-law enforcement agency acting as fiscal agent for one of the previously listed types.

A combination of jurisdictions, including contiguous jurisdictions of multiple towns, cities, or counties, may create a task force or other entity for the purposes of applying for and receiving a grant, provided that the relevant prosecutors and law enforcement agencies are acting in partnership in complying with the grant requirements.

Grant recipients must perform an inventory of all unsubmitted SAKs in the jurisdiction's possession and submit those SAKs for testing. Grant recipients must establish multidisciplinary cold case or sexual assault investigation units for follow-up investigations and prosecutions resulting from evidence from the testing of previously unsubmitted SAKs. Cold case or sexual assault investigative units must include prosecutors, law enforcement, and victim advocates for the duration of the project. The cold case or sexual assault investigative units must also use victim-centered, trauma-informed protocols and other protocols established by the Attorney General. The grant funds may support personnel costs, including hiring and overtime, to allow for adequate follow-up investigations and prosecutions. Grant awards must be prioritized for eligible applicants with a commitment to co-locate assigned prosecutors, law enforcement, and victim advocates for the duration of the grant program.

Participants in the SAKI Pilot Project must complete specialized training for victim-centered, trauma-informed investigation and prosecutions. The Attorney General must also facilitate the hosting of a SAKI Summit in Washington, subject to the availability of funds. Other requirements for administering and participating in the SAKI Pilot Project are included in the bill.

The Attorney General is added to the membership of the Sexual Assault Forensic Examination (SAFE) Best Practices Task Force.

Attorney General's Cold Case Investigations. The Attorney General is authorized to assist law enforcement and prosecutors with investigations and prosecutions of cold cases involving sexual assault, as long as the applicable agency or prosecutor agrees to the assistance. "Cold case" refers to any criminal investigation where initial investigative leads have been exhausted or where significant time has passed without investigative results or the filing of charges. "Cold case" includes, but it not limited to, cases tied to previously unsubmitted SAKs.

An agreement may also authorize the Attorney General to conduct the investigations or prosecutions on behalf of the agency or prosecuting attorney. In those circumstances, the

Attorney General has the same powers as would otherwise be vested in the prosecuting attorney under the law.

The Attorney General is encouraged to seek federal and other grant funds to support investigations and prosecutions of cold cases involving sexual assault, particularly those cases tied to unsubmitted SAKs.

Training. By July 1, 2018, the CJTC must incorporate victim-centered, trauma-informed approaches to policing in the BLEA curriculum.

By July 1, 2018, the CJTC must provide ongoing specialized, intensive, and integrative training for persons responsible for investigating sexual assault cases involving adult victims. The training must be based on a victim-centered, trauma-informed approach to responding to sexual assault. Among other subjects, the training must include content on the neurobiology of trauma and trauma-informed interviewing, counseling, and investigative techniques. Officers assigned to regularly investigate sexual assault involving adult victims must complete the training within one year of being assigned or by July 1, 2020, whichever is later.

By July 1, 2018, the CJTC must develop training on a victim-centered, trauma-informed approach to interacting with victims and responding to sexual assault calls. Among other components, the curriculum must be designed for commissioned patrol officers not regularly assigned to investigate sexual assault cases and be designed for deployment and use within individual law enforcement agencies. All law enforcement agencies shall annually host the training.

Sexually Oriented Business Fee. After October 1, 2017, operators of sexually oriented live adult entertainment establishments must collect \$4 per admission from patrons and submit the funds to the Department of Revenue. Live adult entertainment establishments include adult cabarets, erotic dance venues, strip clubs, or any other commercial premises where live adult entertainment is provided during at least 30 days within a calendar year or a proportional number of days if the establishment was not open for a full calendar year.

Receipts from the fee are deposited in the Sexually Oriented Business Fee Account. The Legislature must prioritize appropriations from the account for:

- the Washington SAKI Pilot Project;
- the OCVA for the purpose of providing support and services, including educational and vocational training, to victims of sexual assault and trafficking;
- victim-centered, trauma-informed training for prosecutors, law enforcement, and victim advocates, including, but not limited to, the training created in the bill; and
- the WSP for the purpose of funding the statewide SAK tracking system and funding the forensic analysis of SAKs.

Private Funds for Sexual Assault Kits. Disbursements of private funds in the Washington SAK Account (Account) are changed to the following:

- 30 percent for the Washington SAKI Pilot Project;
- 30 percent for the CJTC for the training requirements in the bill;
- 10 percent for the OCVA for services to victims of sexual assault and training for professionals interacting with and providing services to victims of sexual assault; and

- 30 percent for the WSP for testing SAKs in the possession of a law enforcement agency but not submitted for forensic testing as of July 24, 2015, unless the WSP deems the funds are not necessary, in which case the funds shall be divided equally to the other purposes above.

A grantor of funds may enter into an agreement with the Department of Commerce for a different allocation of funds, provided that the funds are distributed for the purpose of the SAK Program. Within 30 days of entering into an agreement, the Department of Commerce must notify the SAFE Best Practices Task Force and the appropriate committees of the Legislature.

The disbursement requirements of public funds in the Account remain unchanged.

Appropriation: None.

Fiscal Note: Requested on January 10, 2017.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 8 through 10, relating to the fee collected by sexually oriented live adult entertainment establishments, which takes effect October 1, 2017.