

HOUSE BILL REPORT

HB 1016

As Amended by the Senate

Title: An act relating to hospital notification of availability of sexual assault evidence kit collection.

Brief Description: Concerning hospital notification of availability of sexual assault evidence kit collection.

Sponsors: Representatives Caldier, Cody, Griffey, Mosbrucker, Maycumber, Macri, Jinkins, Slatter, Shea, Van Werven, Irwin, Fitzgibbon, Appleton, Wylie, Doglio, Robinson, Chambers, Orwall, Stanford, Rude, Frame, Leavitt, Walen and Young.

Brief History:

Committee Activity:

Health Care & Wellness: 1/22/19, 2/1/19 [DP].

Floor Activity:

Passed House: 2/7/19, 96-0.

Senate Amended.

Passed Senate: 4/15/19, 46-0.

Brief Summary of Bill

- Requires a hospital that does not perform sexual assault evidence kit collection or does not have an appropriate provider available, to notify any individual who presents at the emergency department requesting a sexual assault evidence kit collection that it does not provide the service, and to coordinate care with the local community sexual assault agency to assist the patient in finding a facility with an appropriate provider available.
- Creates a civil penalty of \$2,000 for failure to comply with this requirement.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass. Signed by 14 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Chambers, Davis, Harris, Jinkins, Maycumber, Riccelli, Robinson, Stonier, Thai and Tharinger.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Kim Weidenaar (786-7120).

Background:

After a person has been the victim of a sexual assault, the person may undergo a forensic examination for the purpose of collecting any evidence that may have been left behind during the assault. The physician or nurse conducting the examination preserves the evidence using a sexual assault forensic examination kit, also commonly referred to as a sexual assault evidence kit or rape kit. After the examination, custody of a sexual assault evidence kit may be transferred to a law enforcement agency to be utilized during an investigation and subsequent criminal prosecution. The victim may not be charged directly or indirectly for the examination.

Sexual assault nurse examiners (SANEs) are registered nurses who have completed specialized education and clinical preparation in the medical forensic care of patients who have experienced sexual assault or abuse. In addition to other services, they can provide medical assistance while also assessing, documenting, and preserving evidence for potential prosecutions. The SANEs conduct forensic examinations where sexual assault evidence kits are collected. However, nurses without SANE training or certification can also conduct such examinations.

The 38 Community Sexual Assault Programs in Washington are accredited by the Office of Crime Victims Advocacy and may provide a 24/7 hotline, information about sexual assault, crisis intervention, and referrals to other community service providers.

Summary of Bill:

By July 1, 2020, any hospital that does not provide sexual assault evidence kit collection or does not have appropriate providers available at all times must develop a plan, in consultation with the local community sexual assault agency, to assist individuals with obtaining sexual assault evidence kit collection.

Beginning July 1, 2020, a hospital that does not perform sexual assault evidence kit collection, or does not have an appropriate provider available, must notify within two hours of a request any individual who presents at the emergency department requesting a sexual assault evidence kit collection that it does not provide the service or does not have a provider available. If the hospital must notify an individual, it must coordinate care with the local community sexual assault agency and assist the patient in finding a facility with an appropriate provider available.

Failure to comply with this requirement is punishable by a civil penalty of \$2,000.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment:

- removes the civil penalty for hospitals that fail to comply with the act; and
- requires hospitals to notify individuals who present at a hospital's emergency department and request a sexual assault evidence kit collection upon arrival that they

may file a complaint with the Department of Health if the hospital fails to notify the individual within two hours that the hospital does not or cannot provide sexual assault evidence kit collection.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) You would not expect a gunshot victim to search for a hospital that could actually help them, but less than 14 percent of hospitals in Washington provide rape kits. There is a significant lack of providers who perform these services, which means that there are delays in individuals getting the rape kits. This can result in a loss of evidence, such as situations in which someone was given a date rape drug but the drug is no longer present in the individual's system. This lack of evidence then means that there are fewer convictions and perpetrators go free.

Every Washington county has a rape crisis center. These centers provided services to 23,000 individuals last year. The stories you hear about survivors not being able to find providers who can perform a rape kit are not rare, this is a common occurrence. This is a problem the state is aware of and is working on by increasing funding and bringing more nurses into the state, but there also needs to be administrative support. When a survivor presents for an exam, we need to make sure that the exam is of high quality, that the provider is trained in trauma informed practices, that the evidence gathered is kept secure, the chain of custody is maintained, and the provider is trained so that they can testify to these practices. This bill will ensure that survivors are connected to services and advocates. Advocates can be with the survivor throughout the process and provide support. These exams often take three hours or more. When advocates are involved, survivors are more likely to participate and work with the system, which means that more perpetrators are held accountable. There has been some concern regarding the penalty, but there does need to be some accountability mechanism.

(Opposed) None.

(Other) The hospitals support this policy and agree that hospitals should have robust plans to deal with these situations and help connect individuals with needed services and local agencies. About 70 percent of hospitals do provide sexual assault nurse examiners (SANE) services, but some do so only through an on-call system. Sometimes a SANE may already be busy doing another exam as the exams take about three to five hours. The two hour requirement is consistent with federal law. The hospitals have been working on best practices, such as letting individuals know if services are not provided as soon as possible. However, the hospitals do not believe that a penalty is the right approach. The Department of Health has robust options available, including corrective action plans, so there are enforcement processes without needing the penalty. The hospitals would also like some

language regarding transportation costs and would like it to specifically be covered by the Crime Victim Fund.

Persons Testifying: (In support) Representative Caldier, prime sponsor; Terri Lindeke, Washington State National Organization for Women; and Andrea Piper-Wentland, Washington Coalition of Sexual Assault Programs.

(Other) Zosia Stanely, Washington State Hospital Association.

Persons Signed In To Testify But Not Testifying: None.