**1068-S AMS LAW S2701.3 - NOT FOR FLOOR USE**

**SHB 1068** - S COMM AMD

By Committee on Law & Justice

**ADOPTED 4/13/2015**

Strike everything after the enacting clause and insert the following:

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

(1) When a law enforcement agency receives a sexual assault examination kit, the law enforcement agency must, within thirty days of its receipt, submit a request for laboratory examination to the Washington state patrol crime laboratory for prioritization for testing by it or another accredited laboratory that holds an outsourcing agreement with the Washington state patrol if:

(a) Consent has been given by the victim; or

(b) The victim is a person under the age of eighteen who is not emancipated pursuant to chapter 13.64 RCW.

(2) Subject to available funding, the Washington state patrol crime laboratory must give priority to the laboratory examination of sexual assault examination kits at the request of a local law enforcement agency for:

(a) Active investigations and cases with impending court dates;

(b) Active investigations where public safety is an immediate concern;

(c) Violent crimes investigations, including active sexual assault investigations;

(d) Postconviction cases; and

(e) Other crimes' investigations and nonactive investigations, such as previously unsubmitted older sexual assault kits or recently collected sexual assault kits that the submitting agency has determined to be lower priority based on their initial investigation.

(3) The failure of a law enforcement agency to submit a request for laboratory examination within the time prescribed under this section does not constitute grounds in any criminal proceeding for challenging the validity of a DNA evidence association, and any evidence obtained from the sexual assault examination kit may not be excluded by a court on those grounds.

(4) A person accused or convicted of committing a crime against a victim has no standing to object to any failure to comply with the requirements of this section, and the failure to comply with the requirements of this section is not grounds for setting aside the conviction or sentence.

(5) Nothing in this section may be construed to create a private right of action or claim on the part of any individual, entity, or agency against any law enforcement agency or any contractor of any law enforcement agency.

(6) This section applies prospectively only and not retroactively. It only applies to sexual assault examinations performed on or after the effective date of this section.

(7)(a) Until June 30, 2018, the Washington state patrol shall compile the following information related to the sexual assault examination kits identified in this section:

(i) The number of requests for laboratory examination made for sexual assault examination kits and the law enforcement agencies that submitted the requests; and

(ii) The progress made towards testing the sexual assault examination kits, including the status of requests for laboratory examination made by each law enforcement agency.

(b) The Washington state patrol shall make recommendations for increasing the progress on testing any untested sexual assault examination kits.

(c) Beginning in 2015, the Washington state patrol shall report its findings and recommendations annually to the appropriate committees of the legislature and the governor by December 1st of each year.

NEW SECTION. **Sec.**  (1)(a) A legislative task force is established to review best practice models for managing all aspects of sexual assault examinations and for reducing the number of untested sexual assault examination kits in Washington state that were collected prior to the effective date of this section.

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

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

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

(A) One member representing each of the following:

(I) The Washington state patrol;

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

(III) The Washington association of prosecuting attorneys;

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

(V) The Washington association of cities;

(VI) The Washington association of county officials;

(VII) The Washington coalition of sexual assault programs;

(VIII) The office of crime victims advocacy;

(IX) The Washington state hospital association;

(X) The Washington state forensic investigations council;

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

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

(B) Two members representing survivors of sexual assault.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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On page 1, line 1 of the title, after "kits;" strike the remainder of the title and insert "adding a new section to chapter 70.125 RCW; creating a new section; and providing an expiration date."

EFFECT: Consent to test the kit is not required if the victim is a person under the age of eighteen who is not emancipated. The crime laboratory must give priority to laboratory examination of sexual assault examination kits at the request of a local law enforcement agency. The caucus leaders select legislative members of the task force. The membership of the task force is changed: A member from one state and one private institution of higher education is included; the members from an additional statewide law enforcement agency and the innocence project are eliminated. The task force is led by legislative members instead of law enforcement and victims advocacy groups. Task force members are reimbursed for expenses. The Washington state patrol compiles information and statistics regarding testing.