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**SUBSTITUTE HOUSE BILL 1068**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** House Public Safety (originally sponsored by Representatives Orwall, Kagi, Appleton, Gregerson, Reykdal, Carlyle, Stanford, Sawyer, Fitzgibbon, Jinkins, Cody, Hudgins, Senn, Clibborn, Moeller, Riccelli, Moscoso, Farrell, and Fey)

AN ACT Relating to sexual assault examination kits; adding a new section to chapter 70.125 RCW; creating a new section; and providing an expiration date.

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

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, and consent has been given by the victim or the victim's parent or legal guardian to analyze the kit as part of a sexual assault investigation, 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.

(2) 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.

(3) 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.

(4) 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.

(5) This section applies prospectively only and not retroactively. It only applies to sexual assault examination kits received by law enforcement on or after the effective date of this section.

NEW SECTION. **Sec.**  (1) A work group is established to determine the number of untested sexual assault examination kits and make recommendations regarding strategies for reducing the number of untested sexual assault examination kits in Washington state.

(2) The work group must consist of the following members:

(a) One member from each of the two largest caucuses of the senate, appointed by the president of the senate;

(b) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(c) The chief of the Washington state patrol or the chief's designee;

(d) The executive director of the Washington association of sheriffs and police chiefs or the executive director's designee;

(e) One member representing the Washington association of prosecuting attorneys;

(f) One member representing the Washington defender association or the Washington association of criminal defense lawyers;

(g) One member representing the Washington association of cities;

(h) One member representing the Washington association of county officials;

(i) One member representing the Washington coalition of sexual assault programs;

(j) One member representing the office of crime victims advocacy;

(k) One member representing the Washington state hospital association;

(l) One member representing the innocence project northwest;

(m) One member representing the Washington state forensic investigations council;

(n) One or more members representing institutions of higher education who have knowledge and expertise regarding sexual assault awareness, prevention, and responses; and

(o) One or more individuals who are survivors of sexual assault.

(3) Members of the work group shall select two cochairs. One cochair must be a member of law enforcement, and the other must be a member of the victim advocacy service community. The legislative members shall convene the first meeting of the work group.

(4) The duties of the work group include, but are not limited to:

(a) With regards to untested sexual assault examination kits collected prior to the effective date of this section but for which no request for laboratory examination was submitted:

(i) Researching and determining the number of untested sexual assault examination kits in Washington state and the reasons why they remain untested;

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

(iii) Researching, reviewing, and making recommendations regarding legislative policy options for reducing the number of untested sexual assault examination kits including, but not limited to, increasing the number of analysts to perform the necessary testing;

(iv) Researching, reviewing, and making recommendations regarding whether additional steps should be taken in cases where sexual assault examination kits have been tested, such as case reviews or additional contacts or notifications to the victims;

(v) Researching, reviewing, and making recommendations regarding the process by which medical, legal, and victim advocacy systems collaboratively respond to victims of sexual assault, best practice models from other states, and any existing gaps in resources needed to ensure a victim-centered response; and

(vi) Researching, identifying, and making recommendations for securing any nonstate funding for testing the sexual assault examination kits and reporting any progress made toward securing such funding;

(b) With regards to sexual assault examination kits for which a request for laboratory examination is submitted under section 1 of this act:

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

(ii) Researching and reporting on the locations where the untested sexual assault examination kits are stored;

(iii) Monitoring and reporting on the progress made towards testing the sexual assault examination kits, including the status of requests for laboratory examination made by each law enforcement agency;

(iv) Making recommendations for increasing the progress on testing any untested sexual assault examination kits; and

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

(5) The first meeting of the work group must occur prior to October 1, 2015. The work group 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.

(6) The work group must meet no less than twice annually.

(7) The work group 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.

(8) The work group shall function within existing resources and no specific budget may be provided to complete the report.

(9) This section expires June 30, 2018.

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