

FINAL BILL REPORT

ESHB 1109

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Synopsis as Enacted

Brief Description: Supporting victims of sexual assault.

Sponsors: House Committee on Appropriations (originally sponsored 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).

House Committee on Public Safety
House Committee on Appropriations
Senate Committee on Law & Justice
Senate Committee on Ways & Means

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 (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.

Substitute House Bill 1068 also created the Sexual Assault Forensic Examination (SAFE) Best Practices Task Force to review best practice models for managing all aspects of sexual assault examinations and for reducing the number of untested SAKs in Washington. The

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.

SAFE Best Practices Task Force is composed of four legislators and 14 stakeholders representing specified interests and organizations.

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 and neglect cases.

Private Funds for Sexual Assault Kits. The Washington SAK Program accepts private funds until June 1, 2022, for the Washington SAK Account. Funds are 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:

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 (Combined DNA Index System) 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 an appropriation, the Washington Sexual Assault Kit Initiative (SAKI) Pilot Project is created for the purpose of providing competitive grants to fund multidisciplinary community response teams seeking resolutions to cases tied to previously unsubmitted SAKs. The Washington Association of Sheriffs and Police Chiefs (WASPC) is required to administer the SAKI Pilot Project.

At least two grants must be given, including 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 investigation teams for follow-up investigations and prosecutions resulting from evidence from the testing of previously unsubmitted SAKs. Cold case teams must include prosecutors, law enforcement, and victim advocates for the duration of the project. Grant awards must be prioritized for eligible applicants with a commitment to co-locate assigned prosecutors, law enforcement, and victim advocates. The cold case teams must use victim-centered, trauma-informed protocols and other protocols established by the WASPC. The grant funds may support personnel costs, including hiring and overtime, to allow for adequate follow-up investigations and prosecutions.

Participants in the SAKI Pilot Project must complete specialized training for victim-centered, trauma-informed investigation and prosecutions. The WASPC 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 specified.

Sexual Assault Forensic Examination Best Practices Task Force. The Office of the Attorney General is added to the membership of the SAFE Best Practices Task Force. Meetings of the SAFE Best Practices Task Force are subject to approval by the Senate and the House of Representatives.

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

Subject to an appropriation, 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. The CJTC must begin offering the training by July 1, 2018. 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.

Subject to an appropriation, the CJTC must develop training on a victim-centered, trauma-informed approach to interacting with victims and responding to sexual assault calls by July 1, 2018. Among other components, the curriculum must be designed for commissioned patrol officers not regularly assigned to investigate sexual assault cases and for deployment

and use within individual law enforcement agencies. All law enforcement agencies must annually host the training.

Sexual Assault Response and Prevention Account. The Sexual Assault Response and Prevention Account is created. 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 specified CJTC training; 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 are changed to the following:

- 30 percent for the Washington SAKI Pilot Project;
- 30 percent for the CJTC for the specified training requirements;
- 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 must 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 are unchanged.

Votes on Final Passage:

House	96	2	
Senate	49	0	(Senate amended)
House			(House refused to concur)
Senate			(Senate insisted on its position)
House			(House insisted on its position)
Senate	49	0	(Senate receded/amended)
House	96	0	(House concurred)

Effective: July 23, 2017