**1109-S.E AMS DHIN S2319.2 - NOT FOR FLOOR USE**

**ESHB 1109** - S AMD **497**

By Senators Dhingra, Padden

**ADOPTED 03/29/2021**

Beginning on page 1, line 5, strike all of section 1 and insert the following:

"**Sec.**  RCW 5.70.005 and 2020 c 26 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Amplified DNA" means DNA generated during scientific analysis using a polymerase chain reaction.

(2) "Association" means the Washington association of sheriffs and police chiefs.

(3) "DNA work product" means (a) product generated during the process of scientific analysis of such material, except amplified DNA, material that had been subjected to DNA extraction, screening by-products, and DNA extracts from reference samples; or (b) any material contained on a microscope slide, swab, in a sample tube, cutting, DNA extract, or some other similar retention method used to isolate potential biological evidence that has been collected by law enforcement or a forensic nurse as part of an investigation and prepared for scientific analysis, whether or not it is submitted for scientific analysis and derived from:

(i) The contents of a sexual assault examination kit;

(ii) Blood;

(iii) Semen;

(iv) Hair;

(v) Saliva;

(vi) Skin tissue;

(vii) Fingerprints;

(viii) Bones;

(ix) Teeth; or

(x) Any other identifiable human biological material or physical evidence.

Notwithstanding the foregoing, "DNA work product" does not include a reference sample collected unless it has been shown through DNA comparison to associate the source of the sample with the criminal case for which it was collected.

((~~(3)~~)) (4) "Governmental entity" means any general law enforcement agency or any person or organization officially acting on behalf of the state or any political subdivision of the state involved in the collection, examination, tracking, packaging, storing, or disposition of biological material collected in connection with a criminal investigation relating to a felony offense.

((~~(4)~~)) (5) "Investigational status" means:

(a) The agency case or incident number;

(b) The date the request for forensic examination of the sexual assault kit was submitted to the Washington state patrol crime laboratory;

(c) The date the forensic examination was complete and reported to the law enforcement agency;

(d) Whether the case is open or closed;

(e) Whether the case was reopened as a result of the hit in the combined DNA index system;

(f) For open cases, whether the case remains:

(i) An active investigation;

(ii) Open pending forensic examination results; or

(iii) Open and inactive, in which case the agency must include a brief description as to why the case is inactive; and

(g) For closed cases, whether the case was closed as a result of:

(i) A referral for prosecution where charges were filed or the prosecutor is reviewing the case;

(ii) A referral for prosecution where the prosecutor declined to file charges based on the case being legally insufficient;

(iii) A referral for prosecution where the prosecutor declined to file charges because the case failed to meet prosecutorial charging standards;

(iv) After reviewing the results of the forensic examination, there was no evidence that a crime occurred, or there was lack of probable cause that a crime occurred;

(v) The inability to locate the victim or lack of victim participation; or

(vi) Any other reason, in which case the agency must include a brief description as to why the case closed.

(6) "Reference sample" means a known sample collected from an individual by a governmental entity for the purpose of comparison to DNA profiles developed in a criminal case.

((~~(5)~~)) (7) "Screening by-product" means a product or waste generated during examination of DNA evidence, or the screening process of such evidence, that is not intended for long-term storage.

((~~(6)~~)) (8) "Sexual assault kit" includes all evidence collected during a sexual assault medical forensic examination.

((~~(7)~~)) (9) "Unreported sexual assault kit" means a sexual assault kit where a law enforcement agency has not received a related report or complaint alleging a sexual assault or other crime has occurred."

On page 2, line 39, after "general" strike "may" and insert "shall"

On page 3, line 4, after "under" strike "section 1(2)(b) of this act" and insert "RCW 5.70.005(5)"

On page 3, line 8, after "the" strike all material through "chiefs" and insert "association"

On page 3, after line 14, insert the following:

"(3) The attorney general's office shall report quarterly to the association the investigational status of any sexual assault kit under RCW 5.70.050.

(4) Beginning in 2022, in consultation with the attorney general's office, the association must submit reports on the information collected pursuant to this section to the governor and appropriate committees of the legislature by January 1st and July 1st of each year."

On page 7, after line 17, insert the following:

"NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

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On page 1, beginning on line 1 of the title, after "assault;" strike "amending RCW 43.101.278 and 70.125.110; and adding new sections to chapter 5.70 RCW" and insert "amending RCW 5.70.005, 43.101.278, and 70.125.110; adding a new section to chapter 5.70 RCW; and declaring an emergency"

EFFECT: (1) Removes the requirement for the WA Association of Sheriffs and Police Chiefs to collect information on the investigational status of sexual assault cases.

(2) The attorney general shall request information from law enforcement where analysis of a sexual assault kit results in a hit in the DNA index system.

(3) The AG shall report quarterly to the association on the investigational status of any sexual assault kit.

(4) The association must report to the governor and legislature by January 1st and July 1st of each year.

(5) Adds an emergency clause.