
SUBSTITUTE HOUSE BILL 1166

State of Washington

66th Legislature

2019 Regular Session

By House Public Safety (originally sponsored by Representatives Orwall, Mosbrucker, Lovick, Griffey, Dolan, Doglio, Valdez, Wylie, Tarleton, Cody, Jenkins, Dent, Ortiz-Self, Van Werven, Stonier, Fitzgibbon, Fey, Walen, Bergquist, Leavitt, Macri, Kloba, and Stanford)

1 AN ACT Relating to supporting sexual assault survivors; amending
2 RCW 43.43.545, 43.101.272, and 70.125.090; amending 2018 c 299 s 921
3 (uncodified); reenacting and amending RCW 9A.04.080; adding a new
4 section to chapter 43.10 RCW; adding a new section to chapter 43.09
5 RCW; adding new sections to chapter 70.125 RCW; providing expiration
6 dates; and declaring an emergency.

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

8 **Sec. 1.** 2018 c 299 s 921 (uncodified) is amended to read as
9 follows:

10 (1)(a) The (~~joint legislative task force on~~) sexual assault
11 forensic examination best practices advisory group is established
12 within the office of the attorney general for the purpose of
13 reviewing best practice models for managing all aspects of sexual
14 assault (~~examinations~~) investigations and for reducing the number
15 of untested sexual assault (~~examination~~) kits in Washington state
16 (~~that were collected prior to the effective date of this section~~).

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

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

1 (iii) ~~The ((president of the senate and the speaker of the house~~
2 ~~of representatives))~~ attorney general, in consultation with the
3 legislative members of the advisory group, shall ~~((jointly))~~ appoint:

4 (A) One member representing each of the following:

5 (I) The Washington state patrol;

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

7 (III) The Washington association of prosecuting attorneys;

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

10 (V) The Washington association of cities;

11 (VI) The Washington association of county officials;

12 (VII) The Washington coalition of sexual assault programs;

13 (VIII) The office of crime victims advocacy;

14 (IX) The Washington state hospital association;

15 (X) ~~((The Washington state forensic investigations council;~~

16 ~~(XI) A public institution of higher education as defined in RCW~~
17 ~~28B.10.016;~~

18 ~~(XII) A private higher education institution as defined in RCW~~
19 ~~28B.07.020; and~~

20 ~~(XIII))~~ The office of the attorney general; and

21 (XI) A sexual assault nurse examiner; and

22 (B) Two members representing survivors of sexual assault.

23 (b) ~~((The task force shall choose two cochairs from among its~~
24 ~~legislative membership. The legislative membership shall convene the~~
25 ~~initial meeting of the task force.))~~ The appointed membership of the
26 joint legislative task force on sexual assault forensic examination
27 best practices transfers to the advisory group administered by the
28 office of the attorney general pursuant to this section. However, the
29 prior cochairs of the joint legislative task force on sexual assault
30 forensic examination best practices may recommend that the attorney
31 general replace appointees who were inactive or otherwise absent from
32 previous meetings.

33 (2) The duties of the ~~((task force))~~ advisory group include, but
34 are not limited to:

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

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

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

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

10 (e) Researching, identifying, and making recommendations for
11 securing nonstate funding for testing the sexual assault
12 (~~(examination)~~) kits, and reporting on progress made toward securing
13 such funding;

14 (f) Prior to the end of the moratorium under section 8 of this
15 act, developing policies and submitting recommendations on the
16 storage, retention, and destruction of unreported sexual assault kits
17 as well as protocols for engaging with survivors associated with
18 unreported sexual assault kits;

19 (g) Monitoring implementation of state and federal legislative
20 changes;

21 (h) Collaborating with the legislature, state agencies, medical
22 facilities, and local governments to implement reforms pursuant to
23 federal grant requirements; and

24 (i) Making recommendations for institutional reforms necessary to
25 prevent sexual assault and improve the experiences of sexual assault
26 survivors in the criminal justice system.

27 (3) The office of the attorney general shall administer and
28 provide staff support (~~(for the task force must be provided by the~~
29 ~~senate committee services and the house of representatives office of~~
30 ~~program research)) to the advisory group.~~

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

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

1 ~~(6) The first meeting of the task force must occur prior to~~
2 ~~October 1, 2015. The task force shall submit a preliminary report~~
3 ~~regarding its initial findings and recommendations to the appropriate~~
4 ~~committees of the legislature and the governor no later than December~~
5 ~~1, 2015.~~

6 ~~(7) The task force)~~ The advisory group must meet no less than
7 twice annually.

8 ~~((8))~~ (6) The ~~((task force))~~ advisory group shall report its
9 findings and recommendations to the appropriate committees of the
10 legislature and the governor ~~((by September 30, 2016, and))~~ by
11 December 1st of ~~((the following))~~ each year.

12 ~~((9))~~ (7) This section expires ~~((June 30, 2019))~~ December 31,
13 2021.

14 **Sec. 2.** RCW 9A.04.080 and 2017 c 266 s 9, 2017 c 231 s 2, and
15 2017 c 125 s 1 are each reenacted and amended to read as follows:

16 (1) Prosecutions for criminal offenses shall not be commenced
17 after the periods prescribed in this section.

18 (a) The following offenses may be prosecuted at any time after
19 their commission:

20 (i) Murder;

21 (ii) Homicide by abuse;

22 (iii) Arson if a death results;

23 (iv) Vehicular homicide;

24 (v) Vehicular assault if a death results;

25 (vi) Hit-and-run injury-accident if a death results (RCW
26 46.52.020(4)).

27 (b) Except as provided in (c) of this subsection, the following
28 offenses shall not be prosecuted more than ten years after their
29 commission:

30 (i) Any felony committed by a public officer if the commission is
31 in connection with the duties of his or her office or constitutes a
32 breach of his or her public duty or a violation of the oath of
33 office;

34 (ii) Arson if no death results;

35 (iii) (A) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is
36 reported to a law enforcement agency within one year of its
37 commission.

1 (B) If a violation of RCW 9A.44.040 or 9A.44.050 is not reported
2 within one year, the rape may not be prosecuted more than three years
3 after its commission;

4 (iv) Indecent liberties under RCW 9A.44.100(1)(b); (~~(e)~~)

5 (v) Attempted murder; or

6 (vi) Trafficking under RCW 9A.40.100.

7 (c) Violations of the following statutes, when committed against
8 a victim under the age of eighteen, may be prosecuted up to the
9 victim's thirtieth birthday: RCW 9A.44.040 (rape in the first
10 degree), 9A.44.050 (rape in the second degree), 9A.44.073 (rape of a
11 child in the first degree), 9A.44.076 (rape of a child in the second
12 degree), 9A.44.079 (rape of a child in the third degree), 9A.44.083
13 (child molestation in the first degree), 9A.44.086 (child molestation
14 in the second degree), 9A.44.089 (child molestation in the third
15 degree), 9A.44.100(1)(b) (indecent liberties), 9A.64.020 (incest), or
16 9.68A.040 (sexual exploitation of a minor).

17 (d) A violation of any offense listed in this subsection (1)(d)
18 may be prosecuted up to ten years after its commission or, if
19 committed against a victim under the age of eighteen, up to the
20 victim's thirtieth birthday, whichever is later:

21 (i) RCW 9.68A.100 (commercial sexual abuse of a minor);

22 (ii) RCW 9.68A.101 (promoting commercial sexual abuse of a
23 minor); or

24 (iii) RCW 9.68A.102 (promoting travel for commercial sexual abuse
25 of a minor).

26 (e) The following offenses shall not be prosecuted more than six
27 years after their commission or their discovery, whichever occurs
28 later:

29 (i) Violations of RCW 9A.82.060 or 9A.82.080;

30 (ii) Any felony violation of chapter 9A.83 RCW;

31 (iii) Any felony violation of chapter 9.35 RCW;

32 (iv) Theft in the first or second degree under chapter 9A.56 RCW
33 when accomplished by color or aid of deception;

34 (v) Theft from a vulnerable adult under RCW 9A.56.400; or

35 (vi) Trafficking in stolen property in the first or second degree
36 under chapter 9A.82 RCW in which the stolen property is a motor
37 vehicle or major component part of a motor vehicle as defined in RCW
38 46.80.010.

1 (f) The following offenses shall not be prosecuted more than five
2 years after their commission: Any class C felony under chapter 74.09,
3 82.36, or 82.38 RCW.

4 (g) Bigamy shall not be prosecuted more than three years after
5 the time specified in RCW 9A.64.010.

6 (h) A violation of RCW 9A.56.030 must not be prosecuted more than
7 three years after the discovery of the offense when the victim is a
8 tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

9 (i) No other felony may be prosecuted more than three years after
10 its commission; except that in a prosecution under RCW 9A.44.115, if
11 the person who was viewed, photographed, or filmed did not realize at
12 the time that he or she was being viewed, photographed, or filmed,
13 the prosecution must be commenced within two years of the time the
14 person who was viewed or in the photograph or film first learns that
15 he or she was viewed, photographed, or filmed.

16 (j) No gross misdemeanor may be prosecuted more than two years
17 after its commission.

18 (k) No misdemeanor may be prosecuted more than one year after its
19 commission.

20 (2) The periods of limitation prescribed in subsection (1) of
21 this section do not run during any time when the person charged is
22 not usually and publicly resident within this state.

23 (3) In any prosecution for a sex offense as defined in RCW
24 9.94A.030, the periods of limitation prescribed in subsection (1) of
25 this section run from the date of commission or (~~one~~) two years
26 from the date on which the identity of the suspect is conclusively
27 established by deoxyribonucleic acid testing or by photograph as
28 defined in RCW 9.68A.011, whichever is later.

29 (4) If, before the end of a period of limitation prescribed in
30 subsection (1) of this section, an indictment has been found or a
31 complaint or an information has been filed, and the indictment,
32 complaint, or information is set aside, then the period of limitation
33 is extended by a period equal to the length of time from the finding
34 or filing to the setting aside.

35 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.09
36 RCW to read as follows:

37 (1) After January 1, 2021, the auditor shall conduct a
38 comprehensive performance audit of the statewide sexual assault
39 tracking system under RCW 43.43.545 and the operations of the

1 Washington state patrol crime laboratory with respect to processing
2 sexual assault kits. In addition to other measures established by the
3 auditor, the performance audit shall assess:

4 (a) Whether the Washington state patrol is operating the
5 statewide sexual assault kit tracking system in accordance with RCW
6 43.43.545 and best practices; and

7 (b) Whether the Washington state patrol crime laboratory has
8 taken actions consistent with best practices, chapter 70.125 RCW, and
9 related state budgetary requirements to address testing backlogs and
10 otherwise improve efficiency and efficacy of sexual assault kit
11 testing.

12 (2) The auditor shall complete the audit and publish a report
13 with its findings no later than December 31, 2021.

14 (3) This section expires July 1, 2022.

15 **Sec. 4.** RCW 43.43.545 and 2016 c 173 s 2 are each amended to
16 read as follows:

17 (1) The Washington state patrol shall create and operate a
18 statewide sexual assault kit tracking system. The Washington state
19 patrol may contract with state or nonstate entities including, but
20 not limited to, private software and technology providers, for the
21 creation, operation, and maintenance of the system.

22 (2) The statewide sexual assault kit tracking system must:

23 (a) Track the location and status of sexual assault kits
24 throughout the criminal justice process, including the initial
25 collection in examinations performed at medical facilities, receipt
26 and storage at law enforcement agencies, receipt and analysis at
27 forensic laboratories, and storage and any destruction after
28 completion of analysis;

29 (b) Designate sexual assault kits as unreported or reported for
30 the purposes of section 8 of this act;

31 (c) Allow medical facilities performing sexual assault forensic
32 examinations, law enforcement agencies, prosecutors, the Washington
33 state patrol bureau of forensic laboratory services, and other
34 entities (~~in the~~) having custody of sexual assault kits to update
35 and track the status and location of sexual assault kits;

36 (~~(e)~~) (d) Allow victims of sexual assault to anonymously track
37 or receive updates regarding the status of their sexual assault kits;
38 and

1 (~~(d)~~) (e) Use electronic technology or technologies allowing
2 continuous access.

3 (3) The Washington state patrol may use a phased implementation
4 process in order to launch the system and facilitate entry and use of
5 the system for required participants. The Washington state patrol may
6 phase initial participation according to region, volume, or other
7 appropriate classifications. All entities (~~(in the)~~) having custody
8 of sexual assault kits shall fully participate in the system no later
9 than June 1, 2018. The Washington state patrol shall submit a report
10 on the current status and plan for launching the system, including
11 the plan for phased implementation, to the joint legislative task
12 force on sexual assault forensic examination best practices, the
13 appropriate committees of the legislature, and the governor no later
14 than January 1, 2017.

15 (4) The Washington state patrol shall submit a semiannual report
16 on the statewide sexual assault kit tracking system to the joint
17 legislative task force on sexual assault forensic examination best
18 practices, the appropriate committees of the legislature, and the
19 governor. The Washington state patrol may publish the current report
20 on its web site. The first report is due July 31, 2018, and
21 subsequent reports are due January 31st and July 31st of each year.
22 The report must include the following:

23 (a) The total number of sexual assault kits in the system
24 statewide and by jurisdiction;

25 (b) The total and semiannual number of sexual assault kits where
26 forensic analysis has been completed statewide and by jurisdiction;

27 (c) The number of sexual assault kits added to the system in the
28 reporting period statewide and by jurisdiction;

29 (d) The total and semiannual number of sexual assault kits where
30 forensic analysis has been requested but not completed statewide and
31 by jurisdiction;

32 (e) The average and median length of time for sexual assault kits
33 to be submitted for forensic analysis after being added to the
34 system, including separate sets of data for all sexual assault kits
35 in the system statewide and by jurisdiction and for sexual assault
36 kits added to the system in the reporting period statewide and by
37 jurisdiction;

38 (f) The average and median length of time for forensic analysis
39 to be completed on sexual assault kits after being submitted for
40 analysis, including separate sets of data for all sexual assault kits

1 in the system statewide and by jurisdiction and for sexual assault
2 kits added to the system in the reporting period statewide and by
3 jurisdiction;

4 (g) The total and semiannual number of sexual assault kits
5 destroyed or removed from the system statewide and by jurisdiction;

6 (h) The total number of sexual assault kits, statewide and by
7 jurisdiction, where forensic analysis has not been completed and six
8 months or more have passed since those sexual assault kits were added
9 to the system; and

10 (i) The total number of sexual assault kits, statewide and by
11 jurisdiction, where forensic analysis has not been completed and one
12 year or more has passed since those sexual assault kits were added to
13 the system.

14 (5) For the purpose of reports under subsection (4) of this
15 section, a sexual assault kit must be assigned to the jurisdiction
16 associated with the law enforcement agency anticipated to receive the
17 sexual assault kit or otherwise (~~in the~~) having custody of the
18 sexual assault kit.

19 (6) Any public agency or entity, including its officials and
20 employees, and any hospital and its employees providing services to
21 victims of sexual assault may not be held civilly liable for damages
22 arising from any release of information or the failure to release
23 information related to the statewide sexual assault kit tracking
24 system, so long as the release was without gross negligence.

25 (7) The Washington state patrol shall adopt rules as necessary to
26 implement this section.

27 **Sec. 5.** RCW 43.101.272 and 2017 c 290 s 3 are each amended to
28 read as follows:

29 (1) Subject to the availability of amounts appropriated for this
30 specific purpose, the commission shall provide ongoing specialized,
31 intensive, and integrative training for persons responsible for
32 investigating sexual assault cases involving adult victims. The
33 training must be based on a victim-centered, trauma-informed approach
34 to responding to sexual assault. Among other subjects, the training
35 must include content on the neurobiology of trauma and trauma-
36 informed interviewing, counseling, and investigative techniques.

37 (2) The training must: Be based on research-based practices and
38 standards; offer participants an opportunity to practice interview
39 skills and receive feedback from instructors; minimize the trauma of

1 all persons who are interviewed during abuse investigations; provide
2 methods of reducing the number of investigative interviews necessary
3 whenever possible; assure, to the extent possible, that investigative
4 interviews are thorough, objective, and complete; recognize needs of
5 special populations; recognize the nature and consequences of
6 victimization; require investigative interviews to be conducted in a
7 manner most likely to permit the interviewed persons the maximum
8 emotional comfort under the circumstances; address record retention
9 and retrieval; ~~((and))~~ address documentation of investigative
10 interviews; and educate investigators on the best practices for
11 notifying victims of the results of forensic analysis of sexual
12 assault kits and other significant events in the investigative
13 process, including for active investigations and cold cases.

14 (3) In developing the training, the commission shall seek advice
15 from the Washington association of sheriffs and police chiefs, the
16 Washington coalition of sexual assault programs, and experts on
17 sexual assault and the neurobiology of trauma. The commission shall
18 consult with the Washington association of prosecuting attorneys in
19 an effort to design training containing consistent elements for all
20 professionals engaged in interviewing and interacting with sexual
21 assault victims in the criminal justice system.

22 (4) The commission shall develop the training and begin offering
23 it by July 1, 2018. Officers assigned to regularly investigate sexual
24 assault involving adult victims shall complete the training within
25 one year of being assigned or by July 1, 2020, whichever is later.

26 **Sec. 6.** RCW 70.125.090 and 2015 c 247 s 1 are each amended to
27 read as follows:

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

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

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

37 (2) ~~((Subject to available funding,))~~ Beginning January 1, 2021,
38 when the Washington state patrol receives a request for examination
39 of a sexual assault kit from a law enforcement agency, the Washington

1 state patrol shall conduct the laboratory examination of the sexual
2 assault kit, and when appropriate, enter relevant information into
3 the combined DNA index system, within forty-five days of receipt of
4 the request. The Washington state patrol crime laboratory must give
5 priority to the laboratory examination of sexual assault examination
6 kits at the request of a local law enforcement agency for:

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

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

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

12 (d) Postconviction cases; and

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

17 (3) The failure of a law enforcement agency to submit a request
18 for laboratory examination, or the failure of the Washington state
19 patrol to facilitate examination, within the time periods prescribed
20 under this section does not constitute grounds in any criminal
21 proceeding for challenging the validity of a DNA evidence
22 association, and any evidence obtained from the sexual assault
23 examination kit may not be excluded by a court on those grounds.

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

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

33 (6) This section applies prospectively only and not
34 retroactively. It only applies to sexual assault examinations
35 performed on or after July 24, 2015.

36 (7) (a) Until June 30, (~~2018~~) 2022, the Washington state patrol
37 shall compile the following information related to the sexual assault
38 examination kits identified in this section and section 7 of this
39 act:

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

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

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

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

14 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.125
15 RCW to read as follows:

16 (1) Law enforcement agencies shall submit requests for forensic
17 analysis of all sexual assault kits collected prior to July 24, 2015,
18 and in the possession of the agencies to the Washington state patrol
19 crime laboratory by October 1, 2019, except submission for forensic
20 analysis is not required when: (a) Forensic analysis has previously
21 been conducted; (b) there is documentation of an adult victim or
22 emancipated minor victim expressing that he or she does not want his
23 or her sexual assault kit submitted for forensic analysis; or (c) a
24 sexual assault kit is noninvestigatory and held by a law enforcement
25 agency pursuant to an agreement with a hospital or other medical
26 provider. The requirements of this subsection apply regardless of the
27 statute of limitations or the status of any related investigation.

28 (2) The Washington state patrol crime laboratory may consult with
29 local law enforcement agencies to coordinate the efficient submission
30 of requests for forensic analysis under this section in conjunction
31 with the implementation of the statewide tracking system under RCW
32 43.43.545, provided that all requests are submitted and all required
33 information is entered into the statewide sexual assault tracking
34 system by October 1, 2019. The Washington state patrol crime
35 laboratory shall facilitate the forensic analysis of all sexual
36 assault kits submitted under this section by December 1, 2020. The
37 analysis may be conducted by the Washington state patrol laboratory
38 or an accredited laboratory holding a contract or agreement with the
39 Washington state patrol. The Washington state patrol shall process

1 the forensic analysis of sexual assault kits in accordance with the
2 priorities in RCW 70.125.090(2).

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

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

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

18 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.125
19 RCW to read as follows:

20 (1) Beginning on the effective date of this section through June
21 30, 2020, untested sexual assault kits may not be disposed of or
22 otherwise destroyed, and must be adequately preserved for the purpose
23 of forensic analysis and potential use in criminal investigations.

24 (2) Except as provided in subsection (4) of this section,
25 unreported sexual assault kits collected prior to the effective date
26 of this section must be stored by the entity responsible for the
27 collection or its designee.

28 (3) Except as provided in subsection (4) of this section,
29 unreported sexual assault kits collected on or after the effective
30 date of this section must be transferred to and stored by the
31 Washington state patrol crime laboratory or its designee.

32 (4) In lieu of the storage requirements under subsection (2) or
33 (3) of this section, a collecting entity may enter into an agreement
34 with a local law enforcement agency or other third party for the
35 storage of unreported sexual assault kits.

36 (5) For the purposes of this section:

37 (a) "Unreported sexual assault kit" means a sexual assault kit
38 collected from a victim who has consented to the collection of the

1 sexual assault kit but who has not reported the alleged crime to law
2 enforcement.

3 (b) "Untested sexual assault kit" means a sexual assault kit that
4 has not been submitted for forensic analysis to a forensic laboratory
5 with combined DNA index system-eligible DNA methodologies. "Untested
6 sexual assault kits" include unreported sexual assault kits as well
7 as any untested sexual assault kits associated with a criminal report
8 or investigation.

9 NEW SECTION. **Sec. 9.** A new section is added to chapter 70.125
10 RCW to read as follows:

11 (1) In addition to all other rights provided in law, a sexual
12 assault survivor has the right to:

13 (a) Receive a medical forensic examination at no cost;

14 (b) Consult with a sexual assault survivor's advocate during any
15 medical evidentiary examination and during any interview by law
16 enforcement officers, prosecuting attorneys, or defense attorneys,
17 unless an advocate cannot be summoned in a timely manner, and
18 regardless of whether a survivor has waived the right in a previous
19 examination or interview;

20 (c) Be informed, upon the request of a survivor, of when the
21 forensic analysis of his or her sexual assault kit and other related
22 physical evidence will be or was completed, the results of the
23 forensic analysis, and whether the analysis yielded a DNA profile and
24 match, provided that the disclosure is made at an appropriate time so
25 as to not impede or compromise an ongoing investigation;

26 (d) Receive notice prior to the destruction or disposal of his or
27 her sexual assault kit;

28 (e) Receive a copy of the police report related to the
29 investigation without charge; and

30 (f) Review his or her statement before law enforcement refers a
31 case to the prosecuting attorney.

32 (2) A sexual assault survivor retains all the rights of this
33 section regardless of whether the survivor agrees to participate in
34 the criminal justice system and regardless of whether the survivor
35 agrees to receive a forensic examination to collect evidence.

36 (3) If a survivor is denied any right enumerated in subsection
37 (1) of this section, he or she may seek an order directing compliance
38 by the relevant party or parties by filing a petition in the superior
39 court in the county in which the sexual assault occurred and

1 providing notice of such petition to the relevant party or parties.
2 Compliance with the right is the sole remedy available to the
3 survivor. The court shall expedite consideration of a petition filed
4 under this subsection.

5 (4) Nothing contained in this section may be construed to provide
6 grounds for error in favor of a criminal defendant in a criminal
7 proceeding. Except in the circumstances as provided in subsection (3)
8 of this section, this section does not grant a new cause of action or
9 remedy against the state, its political subdivisions, law enforcement
10 agencies, or prosecuting attorneys. The failure of a person to make a
11 reasonable effort to protect or adhere to the rights enumerated in
12 this section may not result in civil liability against that person.
13 This section does not limit other civil remedies or defenses of the
14 sexual assault survivor or the offender.

15 (5) For the purposes of this section:

16 (a) "Law enforcement officer" means a general authority
17 Washington peace officer, as defined in RCW 10.93.020, or any person
18 employed by a private police agency at a public school as described
19 in RCW 28A.150.010 or an institution of higher education, as defined
20 in RCW 28B.10.016.

21 (b) "Sexual assault survivor" means any person who is a victim,
22 as defined in RCW 7.69.020, of sexual assault. However, if a victim
23 is incapacitated, deceased, or a minor, sexual assault survivor also
24 includes any lawful representative of the victim, including a parent,
25 guardian, spouse, or other designated representative, unless the
26 person is an alleged perpetrator or suspect.

27 (c) "Sexual assault survivor's advocate" means any person who is
28 defined in RCW 5.60.060 as a sexual assault advocate, or a crime
29 victim advocate.

30 NEW SECTION. **Sec. 10.** Section 1 of this act is added to chapter
31 43.10 RCW.

32 NEW SECTION. **Sec. 11.** Sections 1, 2, and 8 of this act are
33 necessary for the immediate preservation of the public peace, health,
34 or safety, or support of the state government and its existing public
35 institutions, and take effect immediately.

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