
SENATE BILL 6007

State of Washington 52nd Legislature 1991 1st Special Session

By Senators Roach, Wojahn, Owen, Rasmussen, McCaslin, Bailey and Oke.

Read first time June 28, 1991. Referred to Committee on Law & Justice.

1 AN ACT Relating to the collection and preservation of physical
2 evidence resulting from sex offenses against adults and children;
3 adding a new chapter to Title 70 RCW; prescribing penalties; providing
4 an effective date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** Unless the context clearly requires
7 otherwise, the definitions in this section apply throughout this
8 chapter.

9 (1) "Chain of custody" means the process of identifying each
10 individual who handles the evidence collected, and verifying this by
11 recording the signature, date, time, and place of the transfer of
12 evidence among individuals until such time as the evidence is picked up
13 by the police for legal processing.

1 (2) "Charting" means the documentation of information obtained from
2 the patient and retained by the medical practitioner as confidential
3 medical records.

4 (3) "Commission" means the eleven-member commission appointed by
5 the governor under section 4 of this act.

6 (4) "Department" means the department of health.

7 (5) "Evidence collection procedures" means written procedures for
8 obtaining physical evidence during the physical examination of a victim
9 as established by the commission.

10 (6) "Medical care" means the practice of medicine as defined in RCW
11 18.71.011, which is undertaken by any medical practitioner and rendered
12 to a victim.

13 (7) "Medical-legal evidence" means physical evidence collected as
14 prescribed by evidence collection procedures to be established by the
15 commission and other recorded information that is obtained from a sex
16 offense victim during the physical examination and used for criminal
17 investigation and prosecution of sex offenders.

18 (8) "Medical practitioner" means any physician licensed under
19 chapter 18.71 RCW or advanced registered nurse practitioner licensed
20 under RCW 18.88.175 and employed in a hospital emergency department,
21 public or private clinic, or private practice, who performs adult or
22 child sex offense medical examinations.

23 (9) "Patient" means a victim of a sex offense receiving medical
24 care from a medical practitioner.

25 (10) "Person" means an individual involved with administering
26 health care assistance to a victim of a sex offense and includes, but
27 is not limited to, individuals such as nurses, physician assistants,
28 psychologists, and social workers.

1 (11) "Protocols" means the written requirements and provisions
2 established in this chapter and the written evidence collection
3 procedures established by the commission.

4 (12) "Report" means that the sex offense victim, any medical
5 practitioner or person providing care to the victim, or any other
6 individual, directly contacts and informs the police either by phone or
7 in person that a sex offense has been committed and provides pertinent
8 facts and information relating to the incident. The adult sex offense
9 victim must give prior consent to this report.

10 (13) "Sex offense" means:

11 (a) Any offense that is a violation of chapter 9A.44 RCW or RCW
12 9A.64.020. The offenses include: (i) Rape in the first, second, or
13 third degree; (ii) rape of a child in the first, second, or third
14 degree; (iii) child molestation in the first, second, or third degree;
15 (iv) sexual misconduct with a minor in the first or second degree; (v)
16 indecent liberties; and (vi) incest; or

17 (b) Any federal or out-of-state offense that under the laws of this
18 state would be classified as a sex offense under (a) of this
19 subsection.

20 (14) "Sex offense examination kits" are prepackaged evidence
21 collection kits containing those materials necessary to conduct a sex
22 offense examination for the collection of physical evidence from the
23 sex offense victim.

24 (15) "Special populations" are individuals who may be at risk and
25 more vulnerable to sex offenses, or who may have special needs due to
26 age, physical, emotional, or intellectual incapacity, language, or
27 cultural barriers. Such populations include the elderly, children,
28 some ethnic minorities, physically handicapped, developmentally
29 disabled, or the mentally ill.

1 (16) "Standards" means evidence samples collected from a patient
2 that are characteristic of that individual and no other individual and
3 are representative of the type of samples collected from that
4 individual, including any range of variation.

5 (17) "Triage" means the process of screening patients and
6 identifying priorities for their care and treatment.

7 (18) "Victim" means any individual who presents him or herself as
8 having suffered from a sex offense.

9 (19) "Victim compensation assistance" is financial help available
10 to victims of violent crimes administered under the state crime victims
11 compensation program. Assistance includes the payment of medical and
12 nonmedical benefits directly to the victim, when the victim has
13 cooperated with the police and the assault has been reported to the
14 police within seventy-two hours.

15 NEW SECTION. **Sec. 2.** (1) A medical practitioner who provides
16 medical care to any sex offense victim shall adhere to the protocols
17 established in this section and the evidence collection procedures
18 established by the commission.

19 (2) The required protocols for medical care for sex offense victims
20 shall include:

21 (a) A written statement explaining protocols established in this
22 section and the evidence collection procedures established by the
23 commission shall be given to patients and parents or guardians of any
24 patient who is an unemancipated minor;

25 (b) A requirement that the patient and parents or guardians of any
26 patient who is an unemancipated minor be informed of medical care and
27 evidence collection procedures;

1 (c) A requirement that the consent of a patient and parents or
2 guardians of any patient who is an unemancipated minor to medical care
3 and evidence collection be sought;

4 (d) Description of the physical examination and additional medical
5 history information to be obtained from the patient, including a
6 description of the sex offense;

7 (e) Evidence collection procedures required by the commission;

8 (f) Procedures for collecting and documenting presence or absence
9 of motile spermatozoa;

10 (g) Provision for secure refrigeration and dry storage space for
11 the collected evidence;

12 (h) A requirement that collected evidence be stored for the
13 following time periods:

14 (i) Up to seventy-two hours from the time the sex offense is known
15 to have been reported to police; or

16 (ii) For at least thirty days from the date of the incident, if it
17 is unknown whether the sex offense has been reported;

18 (i) Transfer of evidence procedures requiring careful documentation
19 to preserve the chain of custody of evidence collected;

20 (j) Requirements for stocking and maintaining sex offense
21 examination kits, or other appropriate packaging, and the necessary
22 equipment to properly administer medical care and collect medical-legal
23 evidence;

24 (k) Training of personnel and staff concerning the proper
25 collection and storage of evidence; and

26 (l) Charting procedures and appropriate forms to be used during
27 patient treatment.

28 (3) The protocols for medical care for sex offense victims may
29 include:

1 (a) Prearrival instructions to the sex offense victim, if
2 appropriate;

3 (b) Triage instructions for personnel or staff;

4 (c) Provisions for the protection of patient privacy and
5 confidentiality;

6 (d) Crisis intervention techniques used to provide emotional
7 support and advocacy assistance to the victim;

8 (e) Medical care of special populations;

9 (f) Explanation to the patient about the physical examination,
10 medical treatment, reasons for collecting medical-legal evidence, and
11 procedures being used;

12 (g) Explanation to the patient about the reasons and procedures for
13 reporting, with written reporting instructions readily available for
14 the patient's use, if requested;

15 (h) Procedures for admissions, emergency room, nursing, physician,
16 social worker, and any other category of staff coming in contact with
17 the patient;

18 (i) Referrals for counseling and victim advocacy and follow-up
19 medical care;

20 (j) Discharge instructions including the availability of and steps
21 for obtaining victim compensation assistance from the state of
22 Washington.

23 (4) A medical practitioner who does not adhere to the protocols in
24 subsection (2) of this section and the evidence collection procedures
25 as required by the commission shall refer sex offense victims to a
26 medical practitioner who has implemented the protocols. If the
27 victim's condition warrants, the referring physician may treat the
28 victim for any emergent or life-threatening injuries before referring
29 the patient for treatment and evidence collection related to the sex
30 offense.

1 (5) It is a violation of this chapter for a medical practitioner to
2 fail to follow the protocols established in this section, or fail to
3 ensure that the protocols are followed by a person who is employed or
4 supervised by the medical practitioner.

5 NEW SECTION. **Sec. 3.** (1) The department shall send written
6 notice of chapter ... Laws of 1991 1st ex. sess. (this act) to all
7 medical practitioners who may conduct adult or child medical
8 examinations on victims. The notice shall summarize the requirements
9 of this chapter and state the requirement for attendance at a training
10 workshop. The notice shall be sent no later than one hundred twenty
11 days from the effective date of this section.

12 (2) The department shall sponsor workshops for medical
13 practitioners starting no later than one hundred eighty days from the
14 effective date of this section. The workshops shall include
15 information about the requirements of this chapter, the reasons for the
16 requirements, suggestions for how the requirements can be met,
17 explanations of the roles of the law enforcement agency, the state
18 crime laboratory, the department, county prosecutor's offices, the
19 state attorney general, the commission, and other persons administering
20 care to victims as well as any other information deemed necessary or
21 useful by the department.

22 (3) The department shall compile and make available to the public
23 a list of: (a) All medical practitioners who have established
24 protocols in compliance with this chapter; (b) the commission evidence
25 collection requirements; and (c) persons eligible to treat victims.

26 (4) The department shall provide public education and information
27 about this chapter, its purpose, scope, and importance to the
28 investigation of sex offenses and the prosecution of sex offenders.

1 The department shall further educate state residents as to the need for
2 cooperative community efforts in addressing the problems of sex
3 offenses; the need for an increase in victim reporting; the
4 availability of counseling, advocacy groups, and victims' compensation
5 assistance services; and the availability of the list of medical
6 practitioners who have established protocols in compliance with this
7 chapter.

8 (5) The county departments of public health shall compile annual
9 data concerning the number of reported sex offenses, the number for
10 which treatment is provided and evidence is collected, the number of
11 cases prosecuted, the number of convictions obtained, and shall report
12 to the commission annually by February 15th about the information
13 collected for the preceding calendar year.

14 NEW SECTION. **Sec. 4.** (1) An evidence collection and
15 preservation commission is established. The commission shall establish
16 evidence collection and preservation procedures for use by medical
17 practitioners who provide medical care to sex offense victims. The
18 commission shall annually review and update the procedures, allowing
19 for advancements in medical procedures and technology.

20 (2) The commission shall be composed of the secretary of the
21 department or the secretary's designee and ten other members. Ten
22 members shall be appointed by the governor as follows: (a) Three
23 medical practitioners, one each from a hospital, a medical clinic, and
24 a private practice; (b) two law enforcement officers whose duties
25 include the investigation of sex offenses, one each from a state and
26 local law enforcement agency; (c) a forensic expert; (d) two members of
27 advocacy groups, one each representing children and adults; and (e) two
28 attorneys involved in the prosecution of sex offense cases, one each
29 from a prosecutor's office and the attorney general's office.

1 (3) The secretary of the department or the secretary's designee
2 shall serve as chair of the commission.

3 (4) Commission members shall be reimbursed for travel expenses as
4 provided in RCW 43.03.050 and 43.03.060.

5 (5) The department shall provide clerical and other support to the
6 commission to enable it to perform its functions.

7 NEW SECTION. **Sec. 5.** All records and information obtained
8 from a victim under this chapter shall be kept confidential by all
9 persons providing medical care to the victim until and unless the
10 victim has provided a written statement authorizing release of the
11 information.

12 NEW SECTION. **Sec. 6.** Any person who knowingly and willfully
13 violates any provision of section 2 of this act shall be assessed a
14 civil penalty of five hundred dollars per violation.

15 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act shall
16 constitute a new chapter in Title 70 RCW.

17 NEW SECTION. **Sec. 8.** Sections 2 and 6 of this act shall take
18 effect January 1, 1993.

19 NEW SECTION. **Sec. 9.** Sections 1, 3, 4, and 5 of this act are
20 necessary for the immediate preservation of the public peace, health,
21 or safety, or support of the state government and its existing public
22 institutions, and shall take effect immediately.

23 NEW SECTION. **Sec. 10.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.