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**SUBSTITUTE HOUSE BILL 2530**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** House Public Safety (originally sponsored by Representatives Orwall, McCabe, Appleton, Wylie, Tarleton, Senn, McBride, Kagi, Ryu, Hudgins, S. Hunt, Gregerson, Reykdal, Farrell, Pollet, Ortiz-Self, Harris, Bergquist, Lytton, Kochmar, Blake, Cody, Stambaugh, Wilson, Jinkins, Kuderer, Muri, Van De Wege, Frame, Hargrove, Ormsby, Sells, Pettigrew, and Stanford)

AN ACT Relating to protecting victims of sex crimes; amending RCW 36.27.020, 43.43.670, and 82.32.145; amending 2015 c 247 s 2 (uncodified); reenacting and amending RCW 42.56.240 and 43.79A.040; adding new sections to chapter 36.28A RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 36.28 RCW; adding a new section to chapter 43.43 RCW; adding a new section to chapter 70.41 RCW; adding a new section to chapter 43.43 RCW; adding a new section to chapter 43.31 RCW; adding a new chapter to Title 82 RCW; creating a new section; prescribing penalties; providing an effective date; and providing expiration dates.

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

**PART I - TRACKING AND TESTING OF SEXUAL ASSAULT KITS**

NEW SECTION. **Sec.**  A new section is added to chapter 36.28A RCW to read as follows:

(1) When funded, the association shall create and operate a statewide sexual assault kit tracking system.

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

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

(b) Allow medical facilities performing sexual assault forensic examinations, law enforcement agencies, prosecutors, the Washington state patrol, and other entities in the custody of sexual assault kits to update and track the status and location of sexual assault kits; and

(c) Allow victims of sexual assault to anonymously track or receive updates regarding the status of their sexual assault kits.

(3) The association must submit a quarterly report on the statewide sexual assault kit tracking system to the joint legislative task force on sexual assault forensic examination best practices, the appropriate committees of the legislature, and the governor. The association may publish the current quarterly report on its web site. The first quarterly report is due on January 31, 2017, and subsequent quarterly reports are due on April 30th, July 31st, October 31st, and January 31st of each year. The report must include the following:

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

(b) The total and quarterly number of kits where forensic analysis has been completed;

(c) The number of kits added to the system in the quarter statewide and by jurisdiction;

(d) The number of kits where forensic analysis has been completed in the quarter statewide and by jurisdiction;

(e) The total and quarterly number of kits where forensic analysis has been requested but not completed statewide and by jurisdiction;

(f) The average and median length of time for kits to be submitted for forensic analysis after being added to the system, including separate sets of data for all kits in the system statewide and by jurisdiction and for kits added to the system in the quarter statewide and by jurisdiction;

(g) The average and median length of time for forensic analysis to be completed on kits after being submitted for analysis, including separate sets of data for all kits in the system statewide and by jurisdiction and for kits added to the system in the quarter statewide and by jurisdiction; and

(h) The total and quarterly number of kits destroyed or removed from the system statewide and by jurisdiction.

(4) Any appointed or elected official, public employee, or public agency as defined in RCW 4.24.470, or combination of units of government and its employees, as provided in RCW 36.28A.010, and hospitals and hospital employees that provide services to victims of sexual assault are immune from liability for damages for any release of information or the failure to release information related to the statewide sexual assault kit tracking system, so long as the release was without gross negligence. The immunity provided under this subsection applies to the release of relevant and necessary information to other public officials, public employees, or public agencies, and to the public.

NEW SECTION. **Sec.**  A new section is added to chapter 35.21 RCW to read as follows:

Local law enforcement agencies shall participate in the statewide sexual assault kit tracking system established in section 1 of this act for the purpose of tracking the status of all sexual assault kits in the custody of local law enforcement agencies and other entities contracting with local law enforcement agencies.

NEW SECTION. **Sec.**  A new section is added to chapter 36.28 RCW to read as follows:

A sheriff and his or her deputies shall participate in the statewide sexual assault kit tracking system established in section 1 of this act for the purpose of tracking the status of all sexual assault kits in the custody of the department and other entities contracting with the department.

NEW SECTION. **Sec.**  A new section is added to chapter 43.43 RCW to read as follows:

The Washington state patrol shall participate in the statewide sexual assault kit tracking system established in section 1 of this act for the purpose of tracking the status of all sexual assault kits in the custody of the Washington state patrol and other entities contracting with the Washington state patrol.

NEW SECTION. **Sec.**  A new section is added to chapter 70.41 RCW to read as follows:

Hospitals licensed under this chapter shall participate in the statewide sexual assault kit tracking system established in section 1 of this act for the purpose of tracking the status of all sexual assault kits collected by or in the custody of hospitals and other entities contracting with hospitals.

**Sec.**  RCW 36.27.020 and 2012 1st sp.s. c 5 s 2 are each amended to read as follows:

The prosecuting attorney shall:

(1) Be legal adviser of the legislative authority, giving it his or her written opinion when required by the legislative authority or the chairperson thereof touching any subject which the legislative authority may be called or required to act upon relating to the management of county affairs;

(2) Be legal adviser to all county and precinct officers and school directors in all matters relating to their official business, and when required draw up all instruments of an official nature for the use of said officers;

(3) Appear for and represent the state, county, and all school districts subject to the supervisory control and direction of the attorney general in all criminal and civil proceedings in which the state or the county or any school district in the county may be a party;

(4) Prosecute all criminal and civil actions in which the state or the county may be a party, defend all suits brought against the state or the county, and prosecute actions upon forfeited recognizances and bonds and actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or the county;

(5) Attend and appear before and give advice to the grand jury when cases are presented to it for consideration and draw all indictments when required by the grand jury;

(6) Institute and prosecute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of felonies when the prosecuting attorney has information that any such offense has been committed and the prosecuting attorney shall for that purpose attend when required by them if the prosecuting attorney is not then in attendance upon the superior court;

(7) Carefully tax all cost bills in criminal cases and take care that no useless witness fees are taxed as part of the costs and that the officers authorized to execute process tax no other or greater fees than the fees allowed by law;

(8) Receive all cost bills in criminal cases before district judges at the trial of which the prosecuting attorney was not present, before they are lodged with the legislative authority for payment, whereupon the prosecuting attorney may retax the same and the prosecuting attorney must do so if the legislative authority deems any bill exorbitant or improperly taxed;

(9) Present all violations of the election laws which may come to the prosecuting attorney's knowledge to the special consideration of the proper jury;

(10) Examine once in each year the official bonds of all county and precinct officers and report to the legislative authority any defect in the bonds of any such officer;

(11) Seek to reform and improve the administration of criminal justice and stimulate efforts to remedy inadequacies or injustice in substantive or procedural law;

(12) Participate in the statewide sexual assault kit tracking system established under section 1 of this act for the purpose of tracking the status of all sexual assault kits connected to criminal investigations and prosecutions within the county.

**Sec.**  RCW 42.56.240 and 2015 c 224 s 3 and 2015 c 91 s 1 are each reenacted and amended to read as follows:

The following investigative, law enforcement, and crime victim information is exempt from public inspection and copying under this chapter:

(1) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy;

(2) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath;

(3) Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

(4) License applications under RCW 9.41.070; copies of license applications or information on the applications may be released to law enforcement or corrections agencies;

(5) Information revealing the identity of child victims of sexual assault who are under age eighteen. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator;

(6) Information contained in a local or regionally maintained gang database as well as the statewide gang database referenced in RCW 43.43.762;

(7) Data from the electronic sales tracking system established in RCW 69.43.165;

(8) Information submitted to the statewide unified sex offender notification and registration program under RCW 36.28A.040(6) by a person for the purpose of receiving notification regarding a registered sex offender, including the person's name, residential address, and email address;

(9) Personally identifying information collected by law enforcement agencies pursuant to local security alarm system programs and vacation crime watch programs. Nothing in this subsection shall be interpreted so as to prohibit the legal owner of a residence or business from accessing information regarding his or her residence or business;

(10) The felony firearm offense conviction database of felony firearm offenders established in RCW 43.43.822;

(11) The identity of a state employee or officer who has in good faith filed a complaint with an ethics board, as provided in RCW 42.52.410, or who has in good faith reported improper governmental action, as defined in RCW 42.40.020, to the auditor or other public official, as defined in RCW 42.40.020;

(12) The following security threat group information collected and maintained by the department of corrections pursuant to RCW 72.09.745: (a) Information that could lead to the identification of a person's security threat group status, affiliation, or activities; (b) information that reveals specific security threats associated with the operation and activities of security threat groups; and (c) information that identifies the number of security threat group members, affiliates, or associates; ((~~and~~))

(13) The global positioning system data that would indicate the location of the residence of an employee or worker of a criminal justice agency as defined in RCW 10.97.030; and

(14) Any records and information contained within the statewide sexual assault kit tracking system established under section 1 of this act.

**Sec.**  RCW 43.43.670 and 1999 c 40 s 6 are each amended to read as follows:

(1) There is created in the Washington state patrol a bureau of forensic laboratory services system which is authorized to:

(a) Provide laboratory services for the purpose of analyzing and scientifically handling any physical evidence relating to any crime.

(b) Provide training assistance for local law enforcement personnel.

(c) Provide all necessary toxicology services requested by all coroners, medical examiners, and prosecuting attorneys.

(2) The bureau of forensic laboratory services shall assign priority to a request for services with due regard to whether the case involves criminal activity against persons. The Washington state forensic investigations council shall assist the bureau of forensic laboratory services in devising policies to promote the most efficient use of laboratory services consistent with this section. The forensic investigations council shall be actively involved in the preparation of the bureau of forensic laboratory services budget and shall approve the bureau of forensic laboratory services budget prior to its formal submission by the state patrol to the office of financial management pursuant to RCW 43.88.030. The bureau of forensic laboratory services, in consultation with the Washington state forensic investigations council, shall develop budget submissions to the office of financial management sufficient to increase capacity to test all evidence submitted from crimes against persons by 2020, and all evidence submitted from property crimes by 2025.

**PART II - GRANTS TO LAW ENFORCEMENT AGENCIES AND TESTING**

**OF PREVIOUSLY UNSUBMITTED KITS**

NEW SECTION. **Sec.**  The legislature finds that, as of July 24, 2015, there were approximately six thousand sexual assault kits in the possession of Washington's law enforcement agencies, which have not been submitted for forensic examination. The legislature finds all of these kits should undergo forensic testing and receive a follow up reinvestigation of the underlying case once forensic testing is complete. To ensure the follow up reinvestigation, the legislature intends to utilize state, federal, and private resources to fund regional task forces composed of local law enforcement agencies partnered with victims' advocates. The legislature intends to fund the regional task forces with a five-year grant program through the Washington association of sheriffs and police chiefs. The grant moneys are intended for reinvestigation of all cases where a sexual assault kit was in the possession of a Washington law enforcement agency but not submitted for forensic testing as of July 24, 2015.

This section expires June 30, 2022.

NEW SECTION. **Sec.**  A new section is added to chapter 36.28A RCW to read as follows:

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

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

NEW SECTION. **Sec.**  A new section is added to chapter 36.28A RCW to read as follows:

(1) When funded, the association shall establish and administer a grant program for law enforcement agencies and regional task forces composed of local law enforcement agencies for the purpose of reinvestigating all cases where a sexual assault kit was in the possession of a law enforcement agency but not submitted for forensic testing as of July 24, 2015.

(2) Grant recipients must:

(a) Submit for forensic testing all of the sexual assault kits in the possession of the grant recipient but not previously submitted for forensic testing as of July 24, 2015;

(b) Conduct investigations or reinvestigations of cases where a sexual assault kit was in the possession of a law enforcement agency but not submitted for forensic testing as of July 24, 2015;

(c) Use a community sexual assault victims' advocate for investigations funded by the grant;

(d) Develop and use protocols, in consultation with the joint legislative task force on sexual assault forensic examination best practices and the Washington coalition of sexual assault programs, for the notification of victims regarding results of forensic testing of sexual assault kits;

(e) Consult and coordinate with local prosecutors regarding investigations, filing of charges, and prosecution of cases arising from the grant program; and

(f) Submit data and information necessary for the association to comply with subsection (4) of this section.

(3) Grant awards may not be used to supplant preexisting funding for investigations of sexual assaults.

(4) The association must submit a quarterly report on the grant program established under this section to the joint legislative task force on sexual assault forensic examination best practices, the appropriate committees of the legislature, and the governor. The association may publish the current quarterly report on its web site. The first quarterly report is due January 31, 2017, and subsequent quarterly reports are due April 30th, July 31st, October 31st, and January 31st of each year. The report must include the following:

(a) The named recipients of grants and their jurisdictions;

(b) The amount of funding awarded with each grant;

(c) The number of investigations conducted with grant funding by each grant recipient and statewide;

(d) The number of CODIS entries and hits associated with investigations conducted with grant funding by each grant recipient and statewide;

(e) The number of serial offenders associated with investigations conducted with grant funding by each grant recipient and statewide;

(f) The number of criminal charges filed as a result of investigations conducted with grant funding by each grant recipient and statewide;

(g) The number of convictions and pleas arising from investigations conducted with grant funding by each grant recipient and statewide; and

(h) Recommendations for the state and local agencies to improve the investigations of sexual assaults in Washington.

(5) This section expires June 30, 2022.

NEW SECTION. **Sec.**  A new section is added to chapter 43.43 RCW to read as follows:

(1) The Washington state patrol bureau of forensic laboratory services shall increase its capacity to conduct forensic analysis of sexual assault kits to the extent necessary to expeditiously test all sexual assault kits in the possession of law enforcement agencies but not submitted for forensic testing as of July 24, 2015. The increased capacity must accommodate the receipt and analysis of one thousand five hundred sexual assault kits between the effective date of this section and June 30, 2017, and an additional four thousand five hundred sexual assault kits between July 1, 2017, and June 30, 2022. This section does not modify the priorities for testing established in RCW 70.125.090. The Washington state patrol bureau of forensic laboratory services may contract with private laboratories in order to comply with the requirements of this section.

(2) This section expires June 30, 2022.

**PART III - ACCEPTING DONATIONS FOR PROTECTING VICTIMS**

NEW SECTION. **Sec.**  A new section is added to chapter 43.31 RCW to read as follows:

(1) The Washington sexual assault kit program is created within the department for the purpose of accepting private funds for testing sexual assault kits and conducting related investigations where a sexual assault kit was in the possession of a law enforcement agency but not submitted for forensic testing as of July 24, 2015. The director may accept gifts, grants, donations, or moneys from any source for deposit in the Washington sexual assault kit account created under subsection (2) of this section.

(2) The Washington sexual assault kit account is created in the custody of the state treasurer. Funds deposited in the Washington sexual assault kit account may be used for the Washington sexual assault kit testing program established under this section. The Washington sexual assault kit account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(3) Funds deposited in the Washington sexual assault kit account must be transferred and used exclusively for the following:

(a) Forty-five percent of the funds for the Washington state patrol bureau of forensic laboratory services for the purpose of testing sexual assault kits in the possession of a law enforcement agency but not submitted for forensic testing as of July 24, 2015;

(b) Forty percent of the funds for the Washington association of sheriffs and police chiefs for the purpose of funding the grant program established under section 11 of this act; and

(c) Fifteen percent of the funds for the office of crime victims' advocacy in the department for the purpose of funding grants for sexual assault nurse examiner services and training.

(4) This section expires June 30, 2022.

**PART IV - SEXUALLY ORIENTED BUSINESS FEE**

NEW SECTION. **Sec.**  The legislature finds the state has a substantial interest in protecting and preserving the quality of life for its communities against the adverse secondary effects of live adult entertainment. The legislature recognizes local governments have an important role in regulating businesses engaged in live adult entertainment, including reasonable location and licensing restrictions, for the purpose of minimizing adverse secondary effects. However, the adoption of a statewide fee can provide further assistance to the victims of crimes directly and indirectly resulting from these businesses.

The legislature finds that in Washington state, sexually oriented businesses featuring live adult entertainment earn more than twenty-five million dollars per year in revenue. Of the millions of female victims of human trafficking, seventy percent are trafficked into the commercial sex industry, including being recruited to work as hostesses, waitresses, or exotic dancers in sexually oriented businesses featuring adult entertainment. Exotic dancers are more likely to be victims of sexual violence, including sexual assault and rape. The office of crime victims' advocacy plays a critical role in providing support to victims of both human trafficking and sexual assault.

The legislature hereby establishes the sexually oriented business fee to fund policies and programming for investigating sex crimes and supporting trafficking and sex crime victims in Washington. The sexually oriented business fee does not regulate or prohibit any kind of speech. The legislature's interest in preventing harmful secondary effects is not related to the suppression of expression in nude dancing. Citizens are still free to engage in such forms of expression to the extent it complies with other legally established time, place, and manner restrictions. Instead, the sexually oriented business fee offsets the impacts of crime and the other deleterious effects caused by the presence of sexually oriented businesses in Washington.

NEW SECTION. **Sec.**  (1) There is levied and collected a fee upon the admission to a sexually oriented live adult entertainment establishment, in an amount equal to four dollars. The fee imposed under this section must be paid by the patron to the operator of the establishment. Each operator must collect from the patron the full amount of the fee in respect to each admission and without respect to any cover charges that the operator may charge. The fee collected from the patron by the operator must be paid to the department of revenue in accordance with RCW 82.32.045.

(2) All other applicable provisions of chapter 82.32 RCW have full force and application with respect to the fee imposed under this section. The department of revenue must administer this section.

(3) Receipts from the fee imposed in this section must be deposited into the sexually oriented business fee account established in section 17 of this act.

(4) For the purposes of this section, the following definitions apply:

(a) "Adult entertainment" means:

(i) Any live exhibition, performance, or dance of any type conducted by an individual who is unclothed or in such costume, attire, or clothing as to expose any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva, or genitals;

(ii) Any performance of the following acts or of acts which simulate, or use artificial devices or inanimate objects which depict:

(A) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts that are prohibited by law;

(B) The touching, caressing, or fondling of the breast, buttocks, anus, or genitals; or

(C) The displaying of the pubic hair, anus, vulva, or genitals.

(b) "Cover charge" means a charge, regardless of its label, to enter a sexually oriented live adult entertainment establishment or added to the patron's bill by an operator of an establishment or otherwise collected after entrance to the establishment, and the patron is provided the opportunity to enter and view adult entertainment in exchange for payment of the charge.

(c) "Operator" means any person who operates, conducts, or maintains a sexually oriented adult entertainment establishment.

(d) "Patron" means any individual who is admitted to a sexually oriented live adult entertainment establishment.

(e) "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons, however organized.

(f) "Sexually oriented live adult entertainment establishment" means an adult cabaret, erotic dance venue, strip club, or any other commercial premises where live adult entertainment is provided during at least thirty days within a calendar year or a proportional number of days if the establishment was not open for a full calendar year.

NEW SECTION. **Sec.**  (1) The fees required to be collected by the operator under section 15 of this act, are deemed to be held in trust by the operator until paid to the department of revenue, and any operator who appropriates or converts the fees collected to his or her own use or to any use other than the payment of the fees to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(2) If any operator fails to collect the fees imposed under section 15 of this act or having collected the fees, fails to pay the collected fees to the department of revenue in the manner prescribed in section 15 of this act, whether such failure is the result of his or her own acts or the result of acts or conditions beyond the operator's control, the operator is nevertheless, personally liable to the state for the amount of the fees.

(3) The amount of the fees, until paid by the patron to the operator or to the department of revenue, constitutes a debt from the patron to the operator. Any operator who fails or refuses to collect the fees as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any patron who refuses to pay any fees due under this chapter is guilty of a misdemeanor.

NEW SECTION. **Sec.**  (1) The Washington sexually oriented business fee account is created in the custody of the state treasurer. The office of crime victims advocacy within the department of commerce is authorized as an administrator of the account. Receipts from the fee imposed in section 15 of this act must be deposited into the account created in this section. The Washington sexually oriented business fee account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Funds deposited in the Washington sexually oriented business fee account must be transferred and used exclusively for the following purposes:

(a) Prior to July 1, 2021:

(i) Beginning on June 30, 2017, and each year thereafter, fifty percent of the funds must be transferred to the Washington state patrol for use by the Washington state patrol bureau of forensic laboratory services for the purpose of testing sexual assault kits in the possession of a law enforcement agency but not submitted for forensic testing as of July 24, 2015;

(ii) Twenty-five percent of the funds must be used by the office of crime victims advocacy within the department of commerce for the purposes of providing services or support to victims of sexual abuse, which must include, subject to sufficient funds deposited in the Washington sexually oriented business fee account, one hundred fifty thousand dollars directly allocated annually to the Harborview center for sexual assault and traumatic stress for the sole purpose of conducting statewide sexual assault nurse examiner trainings for health care professionals in order to facilitate the providing of forensic sexual assault examination services; and

(iii) Twenty-five percent of the funds must be used by the office of crime victims advocacy in the department of commerce for the purposes of providing services and support, including educational and vocational training opportunities, to victims of human trafficking.

(b) Beginning on July 1, 2021:

(i) Thirty percent of the funds must be transferred on June 30, 2022, and each year thereafter, to the Washington state patrol bureau of forensic laboratory services for the purpose of testing sexual assault kits;

(ii) Thirty-five percent of the funds must be used by the office of crime victims advocacy in the department of commerce for the purposes of providing services or support to victims of sexual abuse, which must include, subject to sufficient funds deposited in the Washington sexually oriented business fee account, one hundred fifty thousand dollars directly allocated annually to the Harborview center for sexual assault and traumatic stress for the sole purpose of conducting statewide sexual assault nurse examiner trainings for health care professionals in order to facilitate the providing of forensic sexual assault examination services; and

(iii) Thirty-five percent of the funds must be used by the office of crime victims advocacy in the department of commerce for the purposes of providing services and support, including educational and vocational training opportunities, to victims of human trafficking.

**Sec.**  RCW 82.32.145 and 2015 c 188 s 121 are each amended to read as follows:

(1) Whenever the department has issued a warrant under RCW 82.32.210 for the collection of unpaid trust fund taxes from a limited liability business entity and that business entity has been terminated, dissolved, or abandoned, or is insolvent, the department may pursue collection of the entity's unpaid trust fund taxes, including penalties and interest on those taxes, against any or all of the responsible individuals. For purposes of this subsection, "insolvent" means the condition that results when the sum of the entity's debts exceeds the fair market value of its assets. The department may presume that an entity is insolvent if the entity refuses to disclose to the department the nature of its assets and liabilities.

(2) Personal liability under this section may be imposed for state and local trust fund taxes.

(3)(a) For a responsible individual who is the current or a former chief executive or chief financial officer, liability under this section applies regardless of fault or whether the individual was or should have been aware of the unpaid trust fund tax liability of the limited liability business entity.

(b) For any other responsible individual, liability under this section applies only if he or she willfully fails to pay or to cause to be paid to the department the trust fund taxes due from the limited liability business entity.

(4)(a) Except as provided in this subsection (4)(a), a responsible individual who is the current or a former chief executive or chief financial officer is liable under this section only for trust fund tax liability accrued during the period that he or she was the chief executive or chief financial officer. However, if the responsible individual had the responsibility or duty to remit payment of the limited liability business entity's trust fund taxes to the department during any period of time that the person was not the chief executive or chief financial officer, that individual is also liable for trust fund tax liability that became due during the period that he or she had the duty to remit payment of the limited liability business entity's taxes to the department but was not the chief executive or chief financial officer.

(b) All other responsible individuals are liable under this section only for trust fund tax liability that became due during the period he or she had the responsibility or duty to remit payment of the limited liability business entity's taxes to the department.

(5) Persons described in subsection (3)(b) of this section are exempt from liability under this section in situations where nonpayment of the limited liability business entity's trust fund taxes is due to reasons beyond their control as determined by the department by rule.

(6) Any person having been issued a notice of assessment under this section is entitled to the appeal procedures under RCW 82.32.160, 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

(7) This section does not relieve the limited liability business entity of its trust fund tax liability or otherwise impair other tax collection remedies afforded by law.

(8) Collection authority and procedures prescribed in this chapter apply to collections under this section.

(9) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Chief executive" means: The president of a corporation; or for other entities or organizations other than corporations or if the corporation does not have a president as one of its officers, the highest ranking executive manager or administrator in charge of the management of the company or organization.

(b) "Chief financial officer" means: The treasurer of a corporation; or for entities or organizations other than corporations or if a corporation does not have a treasurer as one of its officers, the highest senior manager who is responsible for overseeing the financial activities of the entire company or organization.

(c) "Limited liability business entity" means a type of business entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity, or a business entity that is managed or owned in whole or in part by an entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity. Limited liability business entities include corporations, limited liability companies, limited liability partnerships, trusts, general partnerships and joint ventures in which one or more of the partners or parties are also limited liability business entities, and limited partnerships in which one or more of the general partners are also limited liability business entities.

(d) "Manager" has the same meaning as in RCW 25.15.006.

(e) "Member" has the same meaning as in RCW 25.15.006, except that the term only includes members of member-managed limited liability companies.

(f) "Officer" means any officer or assistant officer of a corporation, including the president, vice president, secretary, and treasurer.

(g)(i) "Responsible individual" includes any current or former officer, manager, member, partner, or trustee of a limited liability business entity with an unpaid tax warrant issued by the department.

(ii) "Responsible individual" also includes any current or former employee or other individual, but only if the individual had the responsibility or duty to remit payment of the limited liability business entity's unpaid trust fund tax liability reflected in a tax warrant issued by the department.

(iii) Whenever any taxpayer has one or more limited liability business entities as a member, manager, or partner, "responsible individual" also includes any current and former officers, members, or managers of the limited liability business entity or entities or of any other limited liability business entity involved directly in the management of the taxpayer. For purposes of this subsection (9)(g)(iii), "taxpayer" means a limited liability business entity with an unpaid tax warrant issued against it by the department.

(h) "Trust fund taxes" means taxes collected from purchasers and held in trust under RCW 82.08.050, including taxes imposed under RCW 82.08.020 and 82.08.150, and the sexually oriented business fees collected from patrons and held in trust under section 16 of this act.

(i) "Willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

**Sec.**  RCW 43.79A.040 and 2013 c 251 s 5 and 2013 c 88 s 1 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the Washington advanced college tuition payment program account, the accessible communities account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the multiagency permitting team account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the Washington sexually oriented business fee account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, the center for childhood deafness and hearing loss account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, and the radiation perpetual maintenance fund.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**PART V - SEXUAL ASSAULT FORENSIC EXAMINATION**

**BEST PRACTICES TASK FORCE**

**Sec.**  2015 c 247 s 2 (uncodified) is amended to read as follows:

(1)(a) A legislative task force is established to review best practice models for managing all aspects of sexual assault examinations and for reducing the number of untested sexual assault examination kits in Washington state ((~~that were collected prior to the effective date of this section~~)). The task force may be known and cited as the joint legislative task force on sexual assault forensic examination best practices. The task force is composed of members as provided in this subsection.

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

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

(iii) The president of the senate and the speaker of the house of representatives shall jointly appoint:

(A) One member representing each of the following:

(I) The Washington state patrol;

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

(III) The Washington association of prosecuting attorneys;

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

(V) The Washington association of cities;

(VI) The Washington association of county officials;

(VII) The Washington coalition of sexual assault programs;

(VIII) The office of crime victims advocacy;

(IX) The Washington state hospital association;

(X) The Washington state forensic investigations council;

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

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

(B) Two members representing survivors of sexual assault.

(b) The task force shall choose two cochairs from among its legislative membership. The legislative membership shall convene the initial meeting of the task force.

(2) The duties of the task force include, but are not limited to:

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

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

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

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

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

(f) Reviewing and recommending best practices for notifying victims regarding the status of sexual assault examination kits and testing results;

(g) Reviewing the information and recommendations reported by the Washington association of sheriffs and police chiefs pursuant to section 11 of this act;

(h) Consulting with law enforcement, victims' advocates, and forensic professionals to evaluate the lessons learned from the grant program under section 11 of this act; and

(i) Evaluating other issues relating to evaluating and improving best practices for tracking and testing sexual assault examination kits and conducting related investigations in Washington.

(3) Staff support for the task force must be provided by the senate committee services and the house of representatives office of program research.

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

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

(6) The first meeting of the task force must occur prior to October 1, 2015. The task force 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.

(7) The task force must meet no less than twice annually.

(8) The task force 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.

(9) This section expires ((~~June 30, 2018~~)) October 1, 2022.

NEW SECTION. **Sec.**  Sections 14 through 17 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. **Sec.**  Sections 14 through 17 of this act take effect October 1, 2016.

**--- END ---**