

2SHB 2530 - S COMM AMD

By Committee on Law & Justice

ADOPTED AND ENGROSSED 3/3/2016

1 Strike everything after the enacting clause and insert the
2 following:

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

4 NEW SECTION. **Sec. 1.** The legislature recognizes the deep pain
5 and suffering experienced by victims of sexual assault. Sexual
6 assault is an extreme violation of a person's body and sense of self
7 and safety. Sexual violence is a pervasive social problem. National
8 studies indicate that approximately one in four women will be
9 sexually assaulted in their lifetimes. Survivors often turn to
10 hospitals and local law enforcement for help, and many volunteer to
11 have professionals collect a sexual assault kit to preserve physical
12 evidence from their bodies. The process of collecting a sexual
13 assault kit is extremely invasive and difficult.

14 The legislature finds that, when forensic analysis is completed,
15 the biological evidence contained inside sexual assault kits can be
16 an incredibly powerful tool for law enforcement to solve and prevent
17 crime. Forensic analysis of all sexual assault kits sends a message
18 to survivors that they matter. It sends a message to perpetrators
19 that they will be held accountable for their crimes. The legislature
20 is committed to bringing healing and justice to survivors of sexual
21 assault.

22 The legislature recognizes the laudable and successful efforts of
23 law enforcement in the utilization of forensic analysis of sexual
24 assault kits in the investigation and prosecution of crimes in
25 Washington state. In 2015, the legislature enhanced utilization of
26 this tool by requiring the preservation and forensic analysis of
27 sexual assault kits. The legislature intends to continue building on
28 its efforts through the establishment of the statewide sexual assault
29 kit tracking system. The system will be designed to track all sexual
30 assault kits in Washington state, regardless of when they were
31 collected, in order to further empower survivors with information,

1 assist law enforcement with investigations and crime prevention, and
2 create transparency and foster public trust.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.43
4 RCW to read as follows:

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

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

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

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

22 (c) Allow victims of sexual assault to anonymously track or
23 receive updates regarding the status of their sexual assault kits;
24 and

25 (d) Use electronic technology or technologies allowing continuous
26 access.

27 (3) The Washington state patrol may use a phased implementation
28 process in order to launch the system and facilitate entry and use of
29 the system for required participants. The Washington state patrol may
30 phase initial participation according to region, volume, or other
31 appropriate classifications. All entities in the custody of sexual
32 assault kits shall fully participate in the system no later than June
33 1, 2018. The Washington state patrol shall submit a report on the
34 current status and plan for launching the system, including the plan
35 for phased implementation, to the joint legislative task force on
36 sexual assault forensic examination best practices, the appropriate
37 committees of the legislature, and the governor no later than January
38 1, 2017.

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

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

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

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

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

18 (e) The average and median length of time for sexual assault kits
19 to be submitted for forensic analysis after being added to the
20 system, including separate sets of data for all sexual assault kits
21 in the system statewide and by jurisdiction and for sexual assault
22 kits added to the system in the reporting period statewide and by
23 jurisdiction;

24 (f) The average and median length of time for forensic analysis
25 to be completed on sexual assault kits after being submitted for
26 analysis, including separate sets of data for all sexual assault kits
27 in the system statewide and by jurisdiction and for sexual assault
28 kits added to the system in the reporting period statewide and by
29 jurisdiction;

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

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

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

1 (5) For the purpose of reports under subsection (4) of this
2 section, a sexual assault kit must be assigned to the jurisdiction
3 associated with the law enforcement agency anticipated to receive the
4 sexual assault kit or otherwise in the custody of the sexual assault
5 kit.

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

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 35.21
13 RCW to read as follows:

14 Local law enforcement agencies shall participate in the statewide
15 sexual assault kit tracking system established in section 2 of this
16 act for the purpose of tracking the status of all sexual assault kits
17 in the custody of local law enforcement agencies and other entities
18 contracting with local law enforcement agencies. Local law
19 enforcement agencies shall begin full participation in the system
20 according to the implementation schedule established by the
21 Washington state patrol.

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.28
23 RCW to read as follows:

24 A sheriff and his or her deputies shall participate in the
25 statewide sexual assault kit tracking system established in section 2
26 of this act for the purpose of tracking the status of all sexual
27 assault kits in the custody of the department and other entities
28 contracting with the department. A sheriff shall begin full
29 participation in the system according to the implementation schedule
30 established by the Washington state patrol.

31 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.43
32 RCW to read as follows:

33 The Washington state patrol bureau of forensic laboratory
34 services shall participate in the statewide sexual assault kit
35 tracking system established in section 2 of this act for the purpose
36 of tracking the status of all sexual assault kits in the custody of
37 the Washington state patrol and other entities contracting with the

1 Washington state patrol. The Washington state patrol bureau of
2 forensic laboratory services shall begin full participation in the
3 system according to the implementation schedule established by the
4 Washington state patrol.

5 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.41
6 RCW to read as follows:

7 Hospitals licensed under this chapter shall participate in the
8 statewide sexual assault kit tracking system established in section 2
9 of this act for the purpose of tracking the status of all sexual
10 assault kits collected by or in the custody of hospitals and other
11 entities contracting with hospitals. Hospitals shall begin full
12 participation in the system according to the implementation schedule
13 established by the Washington state patrol.

14 **Sec. 7.** RCW 36.27.020 and 2012 1st sp.s. c 5 s 2 are each
15 amended to read as follows:

16 The prosecuting attorney shall:

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

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

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

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

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

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

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

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

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

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

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

26 (12) Participate in the statewide sexual assault kit tracking
27 system established in section 2 of this act for the purpose of
28 tracking the status of all sexual assault kits connected to criminal
29 investigations and prosecutions within the county. Prosecuting
30 attorneys shall begin full participation in the system according to
31 the implementation schedule established by the Washington state
32 patrol.

33 **Sec. 8.** RCW 42.56.240 and 2015 c 224 s 3 and 2015 c 91 s 1 are
34 each reenacted and amended to read as follows:

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

38 (1) Specific intelligence information and specific investigative
39 records compiled by investigative, law enforcement, and penology

1 agencies, and state agencies vested with the responsibility to
2 discipline members of any profession, the nondisclosure of which is
3 essential to effective law enforcement or for the protection of any
4 person's right to privacy;

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

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

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

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

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

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

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

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

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

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

14 (12) The following security threat group information collected
15 and maintained by the department of corrections pursuant to RCW
16 72.09.745: (a) Information that could lead to the identification of a
17 person's security threat group status, affiliation, or activities;
18 (b) information that reveals specific security threats associated
19 with the operation and activities of security threat groups; and (c)
20 information that identifies the number of security threat group
21 members, affiliates, or associates; (~~and~~)

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

25 (14) Any records and information contained within the statewide
26 sexual assault kit tracking system established in section 2 of this
27 act.

28 **PART II - ACCEPTING DONATIONS FOR PROTECTING VICTIMS**

29 NEW SECTION. **Sec. 9.** A new section is added to chapter 43.31
30 RCW to read as follows:

31 (1) The Washington sexual assault kit program is created within
32 the department for the purpose of accepting private funds conducting
33 forensic analysis of sexual assault kits in the possession of law
34 enforcement agencies but not submitted for analysis as of July 24,
35 2015. The director may accept gifts, grants, donations, or moneys
36 from any source for deposit in the Washington sexual assault kit
37 account created under subsection (2) of this section.

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

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

10 (a) Eighty-five percent of the funds for the Washington state
11 patrol bureau of forensic laboratory services for the purpose of
12 conducting forensic analysis of sexual assault kits in the possession
13 of law enforcement agencies but not submitted for forensic analysis
14 as of July 24, 2015; and

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

18 (4) This section expires June 30, 2022.

19 **Sec. 10.** RCW 43.79A.040 and 2013 c 251 s 5 and 2013 c 88 s 1 are
20 each reenacted and amended to read as follows:

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

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

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

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

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

38 (c) The following accounts and funds must receive eighty percent
39 of their proportionate share of earnings based upon each account's or
40 fund's average daily balance for the period: The advanced right-of-

1 way revolving fund, the advanced environmental mitigation revolving
2 account, the federal narcotics asset forfeitures account, the high
3 occupancy vehicle account, the local rail service assistance account,
4 and the miscellaneous transportation programs account.

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

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

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15 On page 1, line 1 of the title, after "crimes;" strike the
16 remainder of the title and insert "amending RCW 36.27.020; reenacting
17 and amending RCW 42.56.240 and 43.79A.040; adding new sections to
18 chapter 43.43 RCW; adding a new section to chapter 35.21 RCW; adding
19 a new section to chapter 36.28 RCW; adding a new section to chapter
20 70.41 RCW; adding a new section to chapter 43.31 RCW; creating a new
21 section; and providing an expiration date."

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