
Public Safety Committee

HB 2530

Brief Description: Protecting victims of sex crimes.

Sponsors: 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.

Brief Summary of Bill

- Requires the Washington Association of Sheriffs and Police Chiefs (WASPC) to create and operate a statewide sexual assault kit tracking system.
- Requires the WASPC to establish and administer a five-year grant program for local law enforcement agencies to reinvestigate 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.
- Creates a \$4 fee per admission collected from patrons by operators of sexually oriented live adult entertainment establishments to fund testing of sexual assault kits and other services for victims.
- Authorizes the Department of Commerce to accept private donations to fund testing of sexual assault kits, the WASPC grant program, and training for sexual assault nurse examiners.

Hearing Date: 1/19/16

Staff: Kelly Leonard (786-7147).

Background:

Sexual Assault Kits. After a person has been the victim of a sexual assault, the person may undergo a forensic examination for the purpose of collecting any evidence that may have been left behind during the assault. The doctor or nurse conducting the examination preserves the

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evidence using a sexual assault forensic examination kit, also commonly referred to as a sexual assault kit (SAK) or rape kit. After the examination, custody of a SAK may be transferred to a law enforcement agency to be utilized during an investigation and subsequent criminal prosecution.

Prior to 2015, law enforcement agencies and prosecutors had the discretion to send SAKs to forensic laboratories for testing, but were not required to do so. In 2015, the Legislature passed Substitute House Bill 1068, which requires a law enforcement agency to submit a SAK to the Washington State Patrol (WSP) Crime Laboratory within 30 days of receiving it, provided that the victim has consented to the testing. Consent is not a condition of submission if the SAK was collected from a non-emancipated minor. The requirement to test SAKs is prospective as of July 24, 2015, meaning it does not apply to previously unsubmitted SAKs.

Washington Association of Sheriffs and Police Chiefs. The Washington Association of Sheriffs and Police Chiefs (WASPC) is an independent organization consisting of sheriffs, police chiefs, the WSP, the Washington Department of Corrections, and representatives of a number of federal agencies. The WASPC is governed by its executive board. The 1975 Legislature made the WASPC a statutory entity by designating the association as a "combination of units of local government," and it currently receives state funding to manage certain programs. This includes, for example, the Jail Booking and Reporting System.

Office of Crime Victims Advocacy. The Office of Crime Victims Advocacy (OCVA) is a program of the Department of Commerce, which performs victims' advocacy at the direction of the state. Among other functions, the OCVA administers grant funding for certain programs and assists communities in planning and implementing services for crime victims.

Sexual Assault Nurse Examiners. Sexual assault nurse examiners (SANE) are registered nurses who have completed specialized education and clinical preparation in the medical forensic care of patients who have experienced sexual assault or abuse. In addition to other services, they can provide medical assistance while also assessing, documenting, and preserving evidence for potential prosecutions. The SANEs conduct forensic examinations where SAKs are collected. However, nurses without SANE training or certification can also conduct such examinations.

Public Records Act. Under the Public Records Act (PRA), all state and local agencies must make available for public inspection and copying all public records, unless a record falls within a specific statutory exemption. Agencies governed by the PRA include all state offices, departments, divisions, bureaus, boards, or commissions, and every county, city, town, or special purpose district, as well as their associated offices, departments, divisions, bureaus, boards, or commissions. The PRA's provisions requiring disclosure must be interpreted liberally and its exemptions must be narrowly construed to effectuate a general policy favoring disclosure.

Summary of Bill:

Tracking Sexual Assault Kits. When funded, the WASPC must create and operate a statewide sexual assault kit tracking system (system). The system must:

- track the location and status of SAKs throughout the criminal justice process;
- allow certain entities in the custody of SAKs to update and track the status and location of SAKs; and

- allow victims of sexual assault to anonymously track or receive updates regarding the status of their SAKs.

Local law enforcement agencies, prosecutors, hospitals, and the WSP are required to participate in the system.

Any records and information contained within the system are not subject to disclosure under the PRA. Certain public entities as well as hospitals are immune from liability for any release of information or the failure to release information related to the system, so long as the release was without gross negligence.

Grants to Law Enforcement Agencies. When funded, the WASPC must establish and administer a five-year grant program for local law enforcement agencies for the purpose of reinvestigating all cases where a SAK was in the possession of a law enforcement agency but not submitted for forensic testing as of July 24, 2015. Grant awards may not be used to supplant preexisting funding for investigations of sexual assaults.

Grant recipients must:

- Conduct investigations or reinvestigations of cases where a SAK was in the possession of a law enforcement agency but not submitted for forensic testing as of July 24, 2015;
- Employ and use a victims' advocate within the investigative unit responsible for investigations funded by the grant; and
- Develop and use protocols for the notification of victims regarding results of forensic testing of SAKs.

The WASPC must submit a report on the grant program to the Sexual Assault Forensic Examination Best Practices Task Force, the appropriate committees of the Legislature, and the Governor by November 1, 2017, and by November 1 of each subsequent year. The grant program expires on June 1, 2022.

Sexually Oriented Business Fee. After October 1, 2016, operators of sexually oriented live adult entertainment establishments must collect \$4 per admission from patrons and submit the funds to the Department of Revenue. Live adult entertainment establishments include adult cabarets, erotic dance venues, strip clubs, or any other commercial premises where live adult entertainment is provided during at least 30 days within a calendar year or a proportional number of days if the establishment was not open for a full calendar year.

Receipts from the fee are deposited in the Sexually Oriented Business Fee Account administered by the OCVA. From 2017 to 2021 funds are distributed as follows:

- 50 percent to the WSP for testing of SAKs not tested by July 24, 2015;
- 25 percent to the OCVA for services or support to victims of sexual abuse; and
- 25 percent to the OCVA for services or support to victims of trafficking.

From 2022 and onward, funds are distributed as follows:

- 30 percent to the WSP for ongoing testing of SAKs;
- 35 percent to the OCVA for services or support to victims of sexual abuse; and
- 35 percent to the OCVA for services or support to victims of trafficking.

Private Funds for SAKs. The Washington Sexual Assault Kit Program (Program) is created within the Department of Commerce for the purpose of accepting private funds until June 1, 2022. Donated funds must be used exclusively for the following:

- 45 percent for the WSP for testing SAKs in the possession of a law enforcement agency but not submitted for forensic testing as of July 24, 2015;
- 40 percent for the WASPC for the grant program created in the bill; and
- 15 percent for the OCVA for funding grants for SANE services and training.

Appropriation: None.

Fiscal Note: Requested on January 14, 2016.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 13 through 16, relating to the fee collected by sexually oriented live adult entertainment establishments, which takes effect on October 1, 2016.