

FINAL BILL REPORT

2SHB 2530

C 173 L 16
Synopsis as Enacted

Brief Description: Protecting victims of sex crimes.

Sponsors: House Committee on Appropriations (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, Jenkins, Kuderer, Muri, Van De Wege, Frame, Hargrove, Ormsby, Sells, Pettigrew and Stanford).

House Committee on Public Safety
House Committee on Appropriations
Senate Committee on Law & Justice
Senate Committee on Ways & Means

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 was left behind during the assault. The doctor or nurse conducting the examination preserves the 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 discretion to send SAKs to forensic laboratories for testing, but were not required to do so. In 2015 legislation was enacted that 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.

The WSP Crime Laboratory must, subject to available funding, give priority to testing of SAKs for:

- active investigations and cases with impending court dates;
- active investigations where public safety is an immediate concern;

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- violent crimes investigations, including active sexual assault investigations;
- postconviction cases; and
- other criminal investigations and nonactive investigations, such as previously unsubmitted SAKs or recently collected SAKs that the submitting agency has determined to be lower priority based on their initial investigation.

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:

Tracking Sexual Assault Kits. The WSP must create and operate the Statewide SAK Tracking System (system). The WSP may contract with state or nonstate entities including, but not limited to, private software and technology providers, for the creation, operation, and maintenance of the system. The system must:

- track the location and status of SAKs from the point of collection and then throughout the criminal justice process;
- allow participants in the system to update and track the status and location of SAKs;
- allow victims of sexual assault to anonymously track or receive updates regarding the status of their SAKs; and
- use electronic technology or technologies allowing continuous access.

Local law enforcement agencies, prosecutors, hospitals, and the WSP are required to participate in the system. The WSP may use a phased implementation process in order to launch the system and facilitate entry and use of the system for required participants. All entities in the custody of SAKs must fully participate in the system no later than June 1, 2018.

Any records and information contained within the system are not subject to disclosure under the PRA. The WSP must submit semiannual reports on the status of SAKs in the system to the appropriate committees of the Legislature and the Governor.

Private Funds for SAKs. The Washington Sexual Assault Kit 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:

- 85 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; and
- 15 percent for the Office of Crime Victims Advocacy for sexual assault nurse examiner services and training.

Votes on Final Passage:

House	83	14	
Senate	48	0	(Senate amended)
House	96	0	(House concurred)

Effective: June 9, 2016