

# SENATE BILL REPORT

## SHB 1068

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As of March 16, 2015

**Title:** An act relating to sexual assault examination kits.

**Brief Description:** Concerning sexual assault examination kits.

**Sponsors:** House Committee on Public Safety (originally sponsored by Representatives Orwall, Kagi, Appleton, Gregerson, Reykdal, Carlyle, Stanford, Sawyer, Fitzgibbon, Jinkins, Cody, Hudgins, Senn, Clibborn, Moeller, Riccelli, Moscoso, Farrell and Fey).

**Brief History:** Passed House: 3/02/15, 82-15.

**Committee Activity:** Law & Justice: 3/16/15.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Aldo Melchiori (786-7439)

**Background:** 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. Biological evidence such as saliva, blood, or semen may be collected. The doctor or nurse conducting the examination preserves the evidence using a sexual assault examination kit, commonly referred to as a rape kit. The sexual assault examination kit contains tools that may be used by the doctor or nurse, such as swabs, combs, blood collection devices, and documentation forms. When the examination is complete, the evidence is packaged and steps are taken to preserve the chain of custody.

In some cases, custody of the sexual assault examination kit may be transferred to a law enforcement agency. When a law enforcement agency receives a sexual assault examination kit, the agency may submit it to a crime lab for analysis, but is under no specific deadline for submission.

**Summary of Bill:** When a law enforcement agency receives a sexual assault examination kit, and consent has been given for the rape kit to be analyzed as part of a sexual assault investigation, the agency must submit a request for laboratory analysis to the Washington State Patrol Crime Laboratory within 30 days of receiving it. The failure of a law enforcement agency to meet the 30-day deadline is not a basis to exclude the evidence from a court proceeding or to overturn a conviction or sentence, and it does not create a private right of action against the agency.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

A workgroup is created to study the issue of untested sexual assault examination kits in Washington. The President of the Senate appoints one member from each of the two largest caucuses in the Senate and the Speaker of the House of Representatives appoints one member from each of the two largest caucuses of the House of Representatives. In addition, the workgroup consists of one member from each of the following groups:

- the Washington State Patrol;
- the Washington Association of Sheriffs and Police Chiefs;
- the Washington Association of Prosecuting Attorneys;
- the Washington Defender Association or the Washington Association of Criminal Defense Lawyers;
- the Washington Association of Cities;
- the Washington Association of County Officials;
- the Washington Coalition of Sexual Assault Programs;
- the Office of Crime Victims Advocacy;
- the Washington State Hospital Association;
- the Innocence Project Northwest;
- the Washington Forensic Investigations Council;
- institutions of higher education; and
- one or more individuals who are survivors of sexual assault.

The workgroup researches the number of untested sexual assault kits in Washington, the reasons why they are untested, and where they are stored. The workgroup also reviews and makes recommendations regarding policy options for reducing the number of untested kits, the procedure for contact and notification to victims, and the collaboration among medical, legal, and victim advocacy systems in providing services to victims. The workgroup also researches funding sources for the testing of sexual assault examination kits.

The workgroup must meet at least twice annually and provide an initial report on its findings and recommendations to the Legislature and the Governor no later than December 2015, with annual reports required thereafter. The workgroup expires on June 30, 2018.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** Yes.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This bill is about keeping women and children safe. These kits should be handled uniformly throughout the state. The requirement to send the kit in is prospective only. The workgroup is to formulate recommendations including how to properly handle older kits. The DNA evidence will be useful in solving old cases as well. What chance do we have to forensically link serial rapists if we do not test all cases? This will also help prevent future victims. We owe it to the survivors, their families, and the communities we serve to pursue all viable investigative leads and hold sexual offenders accountable. There is a significant fiscal benefit to preventing or reducing future crimes.

OTHER: The Washington State Patrol (WSP) will require additional resources to process the sexual assault kits. At this time, it has not been accurately determined how many of the kits will need to be tested. Storage capacity is also currently limited.

**Persons Testifying:** PRO: Representative Orwall, prime sponsor; Joshua Turnham, Legal Voice; Andrea Piper Wentland, WA Coalition of Sexual Assault Programs; Tom McBride, WA Assn. of Prosecuting Attorneys; Mary Weston, Cuyahoga County Prosecutor, Ohio; Lara Zarowsky, Innocence Project NW; Erika Teschke, citizen.

OTHER: Rob Huss, WSP.

**Persons Signed in to Testify But Not Testifying:** No one.