

SENATE BILL REPORT

2SHB 2530

As of March 2, 2016

Title: An act relating to protecting victims of sex crimes.

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).

Brief History: Passed House: 2/16/16, 83-14.

Committee Activity: Law & Justice: 2/18/16, 2/26/16 [DPA-WM].

Ways & Means: 2/29/16.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Darneille, Frockt, Pearson and Roach.

Staff: Melissa Burke-Cain (786-7755)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Travis Sugarman (786-7446)

Background: A sexual assault victim may undergo a forensic examination for the purpose of collecting any evidence left behind during the assault. The doctor or nurse conducting the examination preserves the evidence in a standardized sexual assault forensic examination kit. The medical facility transfers custody of the examination kit to a law enforcement agency for use in investigation and subsequent prosecution. A 2015 law requires a law enforcement agency to submit an exam kit to the Washington State Patrol (WSP) Crime Laboratory within 30 days of receiving it. The law applies to kits received on or after July 24, 2015. The 2015 law also created the Sexual Assault Forensic Examination (SAFE) Best Practices Task Force to recommend legislative policy options for reducing the backlog of untested kits. A tracking

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.

system would ensure kits are processed according to the law and to provide statewide data for policy and budget development.

Summary of Bill (Recommended Amendments): The Washington State Patrol (WSP) must develop and operate a statewide sexual assault kit tracking system. All records within the tracking system are exempt from public disclosure, rather than just personally identifiable records.

Operators of sexually-oriented live adult entertainment establishments must collect a \$4 dollar admission fee from each patron which will be deposited into the Sexually Oriented Business Account in the custody of the Department of Commerce. The admission fee will be used to fund the tracking system and other prioritized items. The Department of Commerce is authorized to accept donations to reduce the test kit backlog and for sexual assault nurse examiner training.

The WSP must submit semiannual reports to the SAFE Best Practices Task Force, appropriate legislative committees, and the Governor beginning January 1, 2017. The WSP must increase its capacity and meet milestones for forensic analyses of backlogged test kits.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Amendments): The Washington state patrol submits an implementation plan by January 1, 2017, and semiannual reports, rather than quarterly thereafter. Smaller jurisdictions cannot delay reporting. All records within the tracking system are exempt from public disclosure, rather than just personally identifiable records.

Appropriation: None.

Fiscal Note: Available

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed, except for sections 14 through 17, relating to the fee collected by sexually oriented live adult entertainment establishments, which take effect on October 1, 2016.

Staff Summary of Public Testimony on Second Substitute Bill (Law & Justice): PRO: There are approximately 6000 untested sexual assault kits in Washington. This bill requires the Washington State Patrol (WSP) to create a tracking system for kits. Software is already available that can track the current status of a kit as it moves from hospital to forensic testing laboratory to law enforcement agency. Existing software uses a bar-code approach. The kit's progress through testing could be made accessible to a victim, and work continues on privacy of information that may identify a victim. It is reasonable to require live interactive adult entertainment establishments to help fund the cost of kit testing with a \$4 admission charge per patron. About 70 percent of trafficked women pass through these establishments. Testing data in the tracking system is an important metric for our state and ensures accountability. Good progress has been made but the \$4 admission fee and private donations will not be sufficient to sustain the tracking system. Victim privacy is very important. The media does not want to know who the victims are but access to public information will hold

agencies accountable. The tracking system is an important step toward transparency for survivors and the public. In a perfect world state dollars would fund the system, but we support the proposed funding structure because it is important to make progress. This is a good first step. The bill was narrowed by the Appropriations committee, but it will be important to develop long-term capacity for crime labs and grant funding for investigations of underlying crimes. The WSP supports the SAFE Task Force's efforts. It costs approximately \$560 to outsource a kit for testing of three types of evidence. The cost can be up to \$800 per kit, depending on how many different types of evidence are tested. Harborview Medical Center is the only current training location in Washington State for sexual assault nurse examiners. We would like to be able to have additional training sites on the West and East sides of the Cascades, as well as specialized training for pediatric sexual assault nurse examiners. Harborview uses federal and county resources, and training dries up in the absence of funding.

CON: From the adult entertainment business perspective, there are always bad apples but for some in the business, there really is no connection between rape kits and adult entertainment establishments. The industry is not the cause of sex trafficking and dancers must have background checks and licenses from local jurisdictions before they can perform. The adult entertainment industry has changed, and a new corporate model is working better. It isn't reasonable to make the industry bear 100 percent of the liability for testing sexual assault kits. These businesses are highly regulated, no alcohol is served in our establishments, and the industry is working on an anti-trafficking curriculum for use up and down the West coast. We are trying to do the right thing and prevent sex trafficking. The folks that are trying to do the right thing shouldn't be punished. The fee should relate to the cause and effect and our industry is not solely responsible. The \$4 will reduce the number of customers. The \$4 fee represents a 40 percent increase on night entry and a 80 percent increase on day entry to the business.

Persons Testifying on Second Substitute Bill (Law & Justice): PRO: Rep. Orwall, Prime Sponsor; Andrea Piper-Wentland, Wn Coalition of Sexual Assault Programs; Roland Thompson, Allied Daily Newspapers; David Ward, Legal Voice; James McMahan, Wn Assoc of Sheriffs and Police Chiefs; Melissa VanGorkom, Washington State Patrol; Jim Justin, UW Medicine and Harborview Medical Center.

CON: Winter Fink, Consolidated Bookkeeping; Randy Ray, Consolidated Bookkeeping; Eric Forbes, Consolidated Bookkeeping.

Persons Signed In To Testify But Not Testifying on Second Substitute Bill: No one.

Staff Summary of Public Testimony (Ways & Means): PRO: The training in HB 2711 is for the training of the Nurses that examine the kits. WASPC is in strong support of this bill, but we suggest you look at some of the provisions that were taken out of the bill in the house. We think some of them could be very valuable. If this is all the further we get this year, that's ok. We can revisit next year.

OTHER: Law enforcement has worked hard to make sure that illegal activity does not take place in our establishments, and see them as a low priority for policing. However, this bill creates a 40% increase in admission fees. Also it is a fee and not a tax. When you look at the

rules for fees there must be a direct relationship between the fee charged and the service provided. We think the fee could be thrown out in court and want to support the Senate striker which removes the fee.

Persons Testifying (Ways & Means): PRO: James McMahan, WA Assoc Sheriffs & Police Chiefs.

OTHER: Randy Ray, Consolidated Bookkeeping.

Persons Signed In To Testify But Not Testifying: PRO: Andrea Piper-Wentland, WA Colition of Sexual Assault Programs.