

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 2530

64th Legislature
2016 Regular Session

Passed by the House March 8, 2016
Yeas 96 Nays 0

Speaker of the House of Representatives

Passed by the Senate March 3, 2016
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 2530** as passed by House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 2530

AS AMENDED BY THE SENATE

Passed Legislature - 2016 Regular Session

State of Washington **64th Legislature** **2016 Regular Session**

By House 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, Jinkins, Kuderer, Muri, Van De Wege, Frame, Hargrove, Ormsby, Sells, Pettigrew, and Stanford)

READ FIRST TIME 02/09/16.

1 AN ACT Relating to protecting victims of sex crimes; amending RCW
2 36.27.020; reenacting and amending RCW 42.56.240 and 43.79A.040;
3 adding new sections to chapter 43.43 RCW; adding a new section to
4 chapter 35.21 RCW; adding a new section to chapter 36.28 RCW; adding
5 a new section to chapter 70.41 RCW; adding a new section to chapter
6 43.31 RCW; creating a new section; and providing an expiration date.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **PART I - TRACKING AND TESTING OF SEXUAL ASSAULT KITS**

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

19 The legislature finds that, when forensic analysis is completed,
20 the biological evidence contained inside sexual assault kits can be

1 an incredibly powerful tool for law enforcement to solve and prevent
2 crime. Forensic analysis of all sexual assault kits sends a message
3 to survivors that they matter. It sends a message to perpetrators
4 that they will be held accountable for their crimes. The legislature
5 is committed to bringing healing and justice to survivors of sexual
6 assault.

7 The legislature recognizes the laudable and successful efforts of
8 law enforcement in the utilization of forensic analysis of sexual
9 assault kits in the investigation and prosecution of crimes in
10 Washington state. In 2015, the legislature enhanced utilization of
11 this tool by requiring the preservation and forensic analysis of
12 sexual assault kits. The legislature intends to continue building on
13 its efforts through the establishment of the statewide sexual assault
14 kit tracking system. The system will be designed to track all sexual
15 assault kits in Washington state, regardless of when they were
16 collected, in order to further empower survivors with information,
17 assist law enforcement with investigations and crime prevention, and
18 create transparency and foster public trust.

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

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

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

27 (a) Track the location and status of sexual assault kits
28 throughout the criminal justice process, including the initial
29 collection in examinations performed at medical facilities, receipt
30 and storage at law enforcement agencies, receipt and analysis at
31 forensic laboratories, and storage and any destruction after
32 completion of analysis;

33 (b) Allow medical facilities performing sexual assault forensic
34 examinations, law enforcement agencies, prosecutors, the Washington
35 state patrol bureau of forensic laboratory services, and other
36 entities in the custody of sexual assault kits to update and track
37 the status and location of sexual assault kits;

1 (c) Allow victims of sexual assault to anonymously track or
2 receive updates regarding the status of their sexual assault kits;
3 and

4 (d) Use electronic technology or technologies allowing continuous
5 access.

6 (3) The Washington state patrol may use a phased implementation
7 process in order to launch the system and facilitate entry and use of
8 the system for required participants. The Washington state patrol may
9 phase initial participation according to region, volume, or other
10 appropriate classifications. All entities in the custody of sexual
11 assault kits shall fully participate in the system no later than June
12 1, 2018. The Washington state patrol shall submit a report on the
13 current status and plan for launching the system, including the plan
14 for phased implementation, to the joint legislative task force on
15 sexual assault forensic examination best practices, the appropriate
16 committees of the legislature, and the governor no later than January
17 1, 2017.

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

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

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

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

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

35 (e) The average and median length of time for sexual assault kits
36 to be submitted for forensic analysis after being added to the
37 system, including separate sets of data for all sexual assault kits
38 in the system statewide and by jurisdiction and for sexual assault
39 kits added to the system in the reporting period statewide and by
40 jurisdiction;

1 (f) The average and median length of time for forensic analysis
2 to be completed on sexual assault kits after being submitted for
3 analysis, including separate sets of data for all sexual assault kits
4 in the system statewide and by jurisdiction and for sexual assault
5 kits added to the system in the reporting period statewide and by
6 jurisdiction;

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

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

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

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

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

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

30 Local law enforcement agencies shall participate in the statewide
31 sexual assault kit tracking system established in section 2 of this
32 act for the purpose of tracking the status of all sexual assault kits
33 in the custody of local law enforcement agencies and other entities
34 contracting with local law enforcement agencies. Local law
35 enforcement agencies shall begin full participation in the system
36 according to the implementation schedule established by the
37 Washington state patrol.

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

3 A sheriff and his or her deputies shall participate in the
4 statewide sexual assault kit tracking system established in section 2
5 of this act for the purpose of tracking the status of all sexual
6 assault kits in the custody of the department and other entities
7 contracting with the department. A sheriff shall begin full
8 participation in the system according to the implementation schedule
9 established by the Washington state patrol.

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

12 The Washington state patrol bureau of forensic laboratory
13 services shall participate in the statewide sexual assault kit
14 tracking system established in section 2 of this act for the purpose
15 of tracking the status of all sexual assault kits in the custody of
16 the Washington state patrol and other entities contracting with the
17 Washington state patrol. The Washington state patrol bureau of
18 forensic laboratory services shall begin full participation in the
19 system according to the implementation schedule established by the
20 Washington state patrol.

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

23 Hospitals licensed under this chapter shall participate in the
24 statewide sexual assault kit tracking system established in section 2
25 of this act for the purpose of tracking the status of all sexual
26 assault kits collected by or in the custody of hospitals and other
27 entities contracting with hospitals. Hospitals shall begin full
28 participation in the system according to the implementation schedule
29 established by the Washington state patrol.

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

32 The prosecuting attorney shall:

33 (1) Be legal adviser of the legislative authority, giving it his
34 or her written opinion when required by the legislative authority or
35 the chairperson thereof touching any subject which the legislative
36 authority may be called or required to act upon relating to the
37 management of county affairs;

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

5 (3) Appear for and represent the state, county, and all school
6 districts subject to the supervisory control and direction of the
7 attorney general in all criminal and civil proceedings in which the
8 state or the county or any school district in the county may be a
9 party;

10 (4) Prosecute all criminal and civil actions in which the state
11 or the county may be a party, defend all suits brought against the
12 state or the county, and prosecute actions upon forfeited
13 recognizances and bonds and actions for the recovery of debts, fines,
14 penalties, and forfeitures accruing to the state or the county;

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

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

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

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

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

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

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

4 (12) Participate in the statewide sexual assault kit tracking
5 system established in section 2 of this act for the purpose of
6 tracking the status of all sexual assault kits connected to criminal
7 investigations and prosecutions within the county. Prosecuting
8 attorneys shall begin full participation in the system according to
9 the implementation schedule established by the Washington state
10 patrol.

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

13 The following investigative, law enforcement, and crime victim
14 information is exempt from public inspection and copying under this
15 chapter:

16 (1) Specific intelligence information and specific investigative
17 records compiled by investigative, law enforcement, and penology
18 agencies, and state agencies vested with the responsibility to
19 discipline members of any profession, the nondisclosure of which is
20 essential to effective law enforcement or for the protection of any
21 person's right to privacy;

22 (2) Information revealing the identity of persons who are
23 witnesses to or victims of crime or who file complaints with
24 investigative, law enforcement, or penology agencies, other than the
25 commission, if disclosure would endanger any person's life, physical
26 safety, or property. If at the time a complaint is filed the
27 complainant, victim, or witness indicates a desire for disclosure or
28 nondisclosure, such desire shall govern. However, all complaints
29 filed with the commission about any elected official or candidate for
30 public office must be made in writing and signed by the complainant
31 under oath;

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

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

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

10 (6) Information contained in a local or regionally maintained
11 gang database as well as the statewide gang database referenced in
12 RCW 43.43.762;

13 (7) Data from the electronic sales tracking system established in
14 RCW 69.43.165;

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

20 (9) Personally identifying information collected by law
21 enforcement agencies pursuant to local security alarm system programs
22 and vacation crime watch programs. Nothing in this subsection shall
23 be interpreted so as to prohibit the legal owner of a residence or
24 business from accessing information regarding his or her residence or
25 business;

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

28 (11) The identity of a state employee or officer who has in good
29 faith filed a complaint with an ethics board, as provided in RCW
30 42.52.410, or who has in good faith reported improper governmental
31 action, as defined in RCW 42.40.020, to the auditor or other public
32 official, as defined in RCW 42.40.020;

33 (12) The following security threat group information collected
34 and maintained by the department of corrections pursuant to RCW
35 72.09.745: (a) Information that could lead to the identification of a
36 person's security threat group status, affiliation, or activities;
37 (b) information that reveals specific security threats associated
38 with the operation and activities of security threat groups; and (c)
39 information that identifies the number of security threat group
40 members, affiliates, or associates; ((and))

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

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

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

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

10 (1) The Washington sexual assault kit program is created within
11 the department for the purpose of accepting private funds conducting
12 forensic analysis of sexual assault kits in the possession of law
13 enforcement agencies but not submitted for analysis as of July 24,
14 2015. The director may accept gifts, grants, donations, or moneys
15 from any source for deposit in the Washington sexual assault kit
16 account created under subsection (2) of this section.

17 (2) The Washington sexual assault kit account is created in the
18 custody of the state treasurer. Funds deposited in the Washington
19 sexual assault kit account may be used for the Washington sexual
20 assault kit program established under this section. The Washington
21 sexual assault kit account is subject to allotment procedures under
22 chapter 43.88 RCW, but an appropriation is not required for
23 expenditures.

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

26 (a) Eighty-five percent of the funds for the Washington state
27 patrol bureau of forensic laboratory services for the purpose of
28 conducting forensic analysis of sexual assault kits in the possession
29 of law enforcement agencies but not submitted for forensic analysis
30 as of July 24, 2015; and

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

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

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

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

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

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

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

20 (b) The following accounts and funds must receive their
21 proportionate share of earnings based upon each account's or fund's
22 average daily balance for the period: The Washington promise
23 scholarship account, the Washington advanced college tuition payment
24 program account, the accessible communities account, the community
25 and technical college innovation account, the agricultural local
26 fund, the American Indian scholarship endowment fund, the foster care
27 scholarship endowment fund, the foster care endowed scholarship trust
28 fund, the contract harvesting revolving account, the Washington state
29 combined fund drive account, the commemorative works account, the
30 county enhanced 911 excise tax account, the toll collection account,
31 the developmental disabilities endowment trust fund, the energy
32 account, the fair fund, the family leave insurance account, the food
33 animal veterinarian conditional scholarship account, the fruit and
34 vegetable inspection account, the future teachers conditional
35 scholarship account, the game farm alternative account, the GET ready
36 for math and science scholarship account, the Washington global
37 health technologies and product development account, the grain
38 inspection revolving fund, the industrial insurance rainy day fund,
39 the juvenile accountability incentive account, the law enforcement
40 officers' and firefighters' plan 2 expense fund, the local tourism

1 promotion account, the multiagency permitting team account, the
2 pilotage account, the produce railcar pool account, the regional
3 transportation investment district account, the rural rehabilitation
4 account, the Washington sexual assault kit account, the stadium and
5 exhibition center account, the youth athletic facility account, the
6 self-insurance revolving fund, the children's trust fund, the
7 Washington horse racing commission Washington bred owners' bonus fund
8 and breeder awards account, the Washington horse racing commission
9 class C purse fund account, the individual development account
10 program account, the Washington horse racing commission operating
11 account, the life sciences discovery fund, the Washington state
12 heritage center account, the reduced cigarette ignition propensity
13 account, the center for childhood deafness and hearing loss account,
14 the school for the blind account, the Millersylvania park trust fund,
15 the public employees' and retirees' insurance reserve fund, and the
16 radiation perpetual maintenance fund.

17 (c) The following accounts and funds must receive eighty percent
18 of their proportionate share of earnings based upon each account's or
19 fund's average daily balance for the period: The advanced right-of-
20 way revolving fund, the advanced environmental mitigation revolving
21 account, the federal narcotics asset forfeitures account, the high
22 occupancy vehicle account, the local rail service assistance account,
23 and the miscellaneous transportation programs account.

24 (d) Any state agency that has independent authority over accounts
25 or funds not statutorily required to be held in the custody of the
26 state treasurer that deposits funds into a fund or account in the
27 custody of the state treasurer pursuant to an agreement with the
28 office of the state treasurer shall receive its proportionate share
29 of earnings based upon each account's or fund's average daily balance
30 for the period.

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

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