

HOUSE BILL REPORT

HB 2585

As Reported by House Committee On: Health Care & Wellness

Title: An act relating to hospital notification of availability of sexual assault evidence kit collection.

Brief Description: Concerning hospital notification of availability of sexual assault evidence kit collection.

Sponsors: Representatives Caldier, Orwall, McCabe, Gregerson, Jinkins, Cody, Pike, Senn, Wylie and Shea.

Brief History:

Committee Activity:

Health Care & Wellness: 1/26/18, 2/2/18 [DPS].

Brief Summary of Substitute Bill

- Requires any hospital that does not provide sexual assault evidence kit collection or does not have appropriate providers available at all times to create a plan in consultation with the local community sexual assault agency to assist patients in finding an appropriate facility.
- Requires hospitals that do not provide sexual assault evidence kit collection or do not have an appropriate provider available to notify, within two hours, any individual who presents at the hospital's emergency department requesting sexual assault evidence kit collection and to coordinate care with the local community sexual assault agency to assist the patient in finding a facility with an appropriate provider available.
- Creates a civil penalty of \$2,000 for failure to comply with this requirement.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Graves, Assistant Ranking Minority Member; Caldier, Clibborn, DeBolt, Harris, Jinkins, MacEwen, Maycumber, Riccelli, Robinson, Slatter, Stonier and Tharinger.

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.

Staff: Kim Weidenaar (786-7120).

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. The physician or nurse conducting the examination preserves the evidence using a sexual assault forensic examination kit, also commonly referred to as a sexual assault evidence kit or rape kit. After the examination, custody of a sexual assault evidence kit may be transferred to a law enforcement agency to be utilized during an investigation and subsequent criminal prosecution. The victim is prohibited by law from being charged directly or indirectly for the examination.

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 sexual assault evidence kits are collected. However, nurses without SANE training or certification can also conduct such examinations.

The 38 Community Sexual Assault Programs in Washington are accredited by the Office of Crime Victims Advocacy and may provide a 24/7 hotline and referrals to other community service providers.

Summary of Substitute Bill:

By July 1, 2019, any hospital that does not provide sexual assault evidence kit collection or does not have appropriate providers available at all times must develop a plan, in consultation with the local community sexual assault agency, to assist individuals with obtaining sexual assault evidence kit collection.

Beginning July 1, 2019, a hospital that does not perform sexual assault evidence kit collection or does not have an appropriate provider available, must notify within two hours of a request, any individual who presents at the emergency department requesting a sexual assault evidence kit collection that it does not provide the service or does not have a provider available. If the hospital must notify an individual, it must coordinate care with the local community sexual assault agency and assist the patient in finding a facility with an appropriate provider available.

Failure to comply with this requirement is punishable by a civil penalty of \$2,000.

Substitute Bill Compared to Original Bill:

The substitute bill:

- requires a hospital that does not provide sexual assault evidence kit collection or does not have appropriate providers available at all times to create a plan, in consultation with the local community sexual assault agency, to assist individuals in obtaining the sexual assault evidence kit collection at an appropriate facility; and
- removes the requirement on hospitals that do not provide sexual assault evidence kit collection or may not have an appropriate provider available to provide a list of the nearest facilities that provide such collection, and instead requires these hospitals to:
 - provide notice that it cannot perform the collection within two hours of the request for the sexual assault evidence kit collection, rather than two hours from intake; and
 - coordinate care with the local community sexual assault agency and assist the patient in finding a facility with an appropriate provider available.

Appropriation: None.

Fiscal Note: Requested on February 2, 2018.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) If a hospital does not have a provider available that can perform a rape test, they need to tell the individual in a timely manner and help the individual figure out where they can go. Hospitals can take a very long time to let individuals know that they do not perform rape tests; this not only can retraumatize the victim but can also harm the victim's criminal case. Hospitals that do not give this notice should be punished.

The bill should be clarified to state that only hospitals perform these services, so that the hospitals that are notifying patients only share accurate information.

(Opposed) None.

Persons Testifying: Representative Caldier, prime sponsor; Hailee Avocato; and Lisa Thatcher, Washington State Hospital Association.

Persons Signed In To Testify But Not Testifying: None.