
HOUSE BILL 2648

State of Washington

65th Legislature

2018 Regular Session

By Representatives Orwall, Goodman, Klippert, Appleton, Jinkins, Wylie, Tarleton, McBride, Eslick, McDonald, and Stanford

Read first time 01/11/18. Referred to Committee on Public Safety.

1 AN ACT Relating to supporting sexual assault survivors; amending
2 RCW 43.101.272 and 70.125.090; amending 2017 c 290 s 2 (uncodified);
3 adding new sections to chapter 70.125 RCW; creating a new section;
4 and providing an expiration date.

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

6 **Sec. 1.** 2017 c 290 s 2 (uncodified) is amended to read as
7 follows:

8 (1)(a) The joint legislative task force on sexual assault
9 forensic examination best practices is established for the purpose of
10 reviewing best practice models for managing all aspects of sexual
11 assault (~~(examinations)~~) investigations and for reducing the number
12 of untested sexual assault examination kits in Washington state
13 (~~(that were collected prior to the effective date of this section)~~).

14 (i) The caucus leaders from the senate shall appoint one member
15 from each of the two largest caucuses of the senate.

16 (ii) The caucus leaders from the house of representatives shall
17 appoint one member from each of the two largest caucuses of the house
18 of representatives.

19 (iii) The president of the senate and the speaker of the house of
20 representatives shall jointly appoint:

21 (A) One member representing each of the following:

1 (I) The Washington state patrol;
2 (II) The Washington association of sheriffs and police chiefs;
3 (III) The Washington association of prosecuting attorneys;
4 (IV) The Washington defender association or the Washington
5 association of criminal defense lawyers;
6 (V) The Washington association of cities;
7 (VI) The Washington association of county officials;
8 (VII) The Washington coalition of sexual assault programs;
9 (VIII) The office of crime victims advocacy;
10 (IX) The Washington state hospital association;
11 (X) The Washington state forensic investigations council;
12 (XI) A public institution of higher education as defined in RCW
13 28B.10.016;
14 (XII) A private higher education institution as defined in RCW
15 28B.07.020; (~~and~~)
16 (XIII) The office of the attorney general; and
17 (XIV) A sexual assault nurse examiner; and
18 (B) Two members representing survivors of sexual assault.
19 (b) The task force shall choose two cochairs from among its
20 legislative membership. The legislative membership shall convene the
21 initial meeting of the task force.
22 (2) The duties of the task force include, but are not limited to:
23 (a) Researching and determining the number of untested sexual
24 assault examination kits in Washington state;
25 (b) Researching the locations where the untested sexual assault
26 examination kits are stored;
27 (c) Researching, reviewing, and making recommendations regarding
28 legislative policy options for reducing the number of untested sexual
29 assault examination kits;
30 (d) Researching the best practice models both in state and from
31 other states for collaborative responses to victims of sexual assault
32 from the point the sexual assault examination kit is collected to the
33 conclusion of the investigation and prosecution of a case, and
34 providing recommendations regarding any existing gaps in Washington
35 and resources that may be necessary to address those gaps; (~~and~~)
36 (e) Researching, identifying, and making recommendations for
37 securing nonstate funding for testing the sexual assault examination
38 kits, and reporting on progress made toward securing such funding;
39 (f) Monitoring implementation of state and federal legislative
40 changes;

1 (g) Collaborating with the office of the attorney general to
2 implement reforms pursuant to federal grant requirements; and

3 (h) Making recommendations for institutional reforms necessary to
4 prevent sexual assault and improve the experiences of sexual assault
5 survivors in the criminal justice system.

6 (3) Staff support for the task force must be provided by the
7 senate committee services and the house of representatives office of
8 program research.

9 (4) Legislative members of the task force must be reimbursed for
10 travel expenses in accordance with RCW 44.04.120. Nonlegislative
11 members, except those representing an employer or organization, are
12 entitled to be reimbursed for travel expenses in accordance with RCW
13 43.03.050 and 43.03.060.

14 (5) The expenses of the task force must be paid jointly by the
15 senate and the house of representatives. Task force meetings and
16 expenditures are subject to approval by the senate facilities and
17 operations committee and the house of representatives executive rules
18 committee, or their successor committees.

19 (6) The first meeting of the task force must occur prior to
20 October 1, 2015. The task force shall submit a preliminary report
21 regarding its initial findings and recommendations to the appropriate
22 committees of the legislature and the governor no later than December
23 1, 2015.

24 (7) The task force must meet no less than twice annually.

25 (8) The task force shall report its findings and recommendations
26 to the appropriate committees of the legislature and the governor by
27 September 30, 2016, and by December 1st of (~~the following~~) each
28 subsequent year.

29 (9) This section expires (~~June~~) September 30, (~~2018~~) 2020.

30 **Sec. 2.** RCW 43.101.272 and 2017 c 290 s 3 are each amended to
31 read as follows:

32 (1) Subject to the availability of amounts appropriated for this
33 specific purpose, the commission shall provide ongoing specialized,
34 intensive, and integrative training for persons responsible for
35 investigating sexual assault cases involving adult victims. The
36 training must be based on a victim-centered, trauma-informed approach
37 to responding to sexual assault. Among other subjects, the training
38 must include content on the neurobiology of trauma and trauma-
39 informed interviewing, counseling, and investigative techniques.

1 (2) The training must: Be based on research-based practices and
2 standards; offer participants an opportunity to practice interview
3 skills and receive feedback from instructors; minimize the trauma of
4 all persons who are interviewed during abuse investigations; provide
5 methods of reducing the number of investigative interviews necessary
6 whenever possible; assure, to the extent possible, that investigative
7 interviews are thorough, objective, and complete; recognize needs of
8 special populations; recognize the nature and consequences of
9 victimization; require investigative interviews to be conducted in a
10 manner most likely to permit the interviewed persons the maximum
11 emotional comfort under the circumstances; address record retention
12 and retrieval; ~~((and))~~ address documentation of investigative
13 interviews; and educate investigators on the best practices for
14 notifying victims of the results of forensic analysis of sexual
15 assault kits and other significant events in the investigative
16 process, including for active investigations and cold cases.

17 (3) In developing the training, the commission shall seek advice
18 from the Washington association of sheriffs and police chiefs, the
19 Washington coalition of sexual assault programs, and experts on
20 sexual assault and the neurobiology of trauma. The commission shall
21 consult with the Washington association of prosecuting attorneys in
22 an effort to design training containing consistent elements for all
23 professionals engaged in interviewing and interacting with sexual
24 assault victims in the criminal justice system.

25 (4) The commission shall develop the training and begin offering
26 it by July 1, 2018. Officers assigned to regularly investigate sexual
27 assault involving adult victims shall complete the training within
28 one year of being assigned or by July 1, 2020, whichever is later.

29 **Sec. 3.** RCW 70.125.090 and 2015 c 247 s 1 are each amended to
30 read as follows:

31 (1) When a law enforcement agency receives a sexual assault
32 examination kit, the law enforcement agency must, within thirty days
33 of its receipt, submit a request for laboratory examination to the
34 Washington state patrol crime laboratory for prioritization for
35 testing by it or another accredited laboratory that holds an
36 outsourcing agreement with the Washington state patrol if:

37 (a) Consent has been given by the victim; or

38 (b) The victim is a person under the age of eighteen who is not
39 emancipated pursuant to chapter 13.64 RCW.

1 (2) Subject to available funding, the Washington state patrol
2 crime laboratory must give priority to the laboratory examination of
3 sexual assault examination kits at the request of a local law
4 enforcement agency for:

5 (a) Active investigations and cases with impending court dates;

6 (b) Active investigations where public safety is an immediate
7 concern;

8 (c) Violent crimes investigations, including active sexual
9 assault investigations;

10 (d) Postconviction cases; and

11 (e) Other crimes' investigations and nonactive investigations,
12 such as previously unsubmitted older sexual assault kits or recently
13 collected sexual assault kits that the submitting agency has
14 determined to be lower priority based on their initial investigation.

15 (3) The failure of a law enforcement agency to submit a request
16 for laboratory examination within the time prescribed under this
17 section does not constitute grounds in any criminal proceeding for
18 challenging the validity of a DNA evidence association, and any
19 evidence obtained from the sexual assault examination kit may not be
20 excluded by a court on those grounds.

21 (4) A person accused or convicted of committing a crime against a
22 victim has no standing to object to any failure to comply with the
23 requirements of this section, and the failure to comply with the
24 requirements of this section is not grounds for setting aside the
25 conviction or sentence.

26 (5) Nothing in this section may be construed to create a private
27 right of action or claim on the part of any individual, entity, or
28 agency against any law enforcement agency or any contractor of any
29 law enforcement agency.

30 (6) This section applies prospectively only and not
31 retroactively. It only applies to sexual assault examinations
32 performed on or after July 24, 2015.

33 (7)(a) Until June 30, (~~2018~~) 2022, the Washington state patrol
34 shall compile the following information related to the sexual assault
35 examination kits identified in this section and section 4 of this
36 act:

37 (i) The number of requests for laboratory examination made for
38 sexual assault examination kits and the law enforcement agencies that
39 submitted the requests; and

1 (ii) The progress made towards testing the sexual assault
2 examination kits, including the status of requests for laboratory
3 examination made by each law enforcement agency.

4 (b) The Washington state patrol shall make recommendations for
5 increasing the progress on testing any untested sexual assault
6 examination kits.

7 (c) Beginning in 2015, the Washington state patrol shall report
8 its findings and recommendations annually to the appropriate
9 committees of the legislature and the governor by December 1st of
10 each year.

11 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.125
12 RCW to read as follows:

13 (1) Law enforcement agencies shall submit requests for forensic
14 analysis of all sexual assault kits collected prior to July 24, 2015,
15 and in the possession of the agencies to the Washington state patrol
16 crime laboratory by January 1, 2019, except submission for forensic
17 analysis is not required when: (a) Forensic analysis has previously
18 been conducted; (b) there is documentation of an adult victim or
19 emancipated minor victim expressing that he or she does not want his
20 or her sexual assault kit submitted for forensic analysis; or (c) a
21 sexual assault kit is noninvestigatory and held by a law enforcement
22 agency pursuant to an agreement with a hospital or other medical
23 provider. The requirements of this subsection apply regardless of the
24 statute of limitations or the status of any related investigation.

25 (2) The Washington state patrol crime laboratory may consult with
26 local law enforcement agencies to coordinate the efficient submission
27 of requests for forensic analysis under this section in conjunction
28 with the implementation of the statewide tracking system under RCW
29 43.43.545, provided that all requests are submitted by January 1,
30 2019. The Washington state patrol crime laboratory shall facilitate
31 the forensic analysis of all sexual assault kits submitted under this
32 section by December 1, 2021. The analysis may be conducted by the
33 Washington state patrol laboratory or an accredited laboratory
34 holding a contract or agreement with the Washington state patrol. The
35 Washington state patrol shall process the forensic analysis of sexual
36 assault kits in accordance with the priorities in RCW 70.125.090(2).

37 (3) The failure of a law enforcement agency to submit a request
38 for laboratory examination within the time prescribed under this
39 section does not constitute grounds in any criminal proceeding for

1 challenging the validity of a DNA evidence association, and any
2 evidence obtained from the sexual assault kit may not be excluded by
3 a court on those grounds.

4 (4) A person accused or convicted of committing a crime against a
5 victim has no standing to object to any failure to comply with the
6 requirements of this section, and the failure to comply with the
7 requirements of this section is not grounds for setting aside the
8 conviction or sentence.

9 (5) Nothing in this section may be construed to create a private
10 right of action or claim on the part of any individual, entity, or
11 agency against any law enforcement agency or any contractor of any
12 law enforcement agency.

13 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.125
14 RCW to read as follows:

15 (1) In addition to all other rights provided in law, a sexual
16 assault survivor has the right to:

17 (a) Receive a medical forensic examination at no cost;

18 (b) Consult with a sexual assault survivor's advocate during any
19 medical evidentiary examination and during any interview by law
20 enforcement officers, prosecuting attorneys, or defense attorneys,
21 unless an advocate cannot be summoned in a timely manner, and
22 regardless of whether a survivor has waived the right in a previous
23 examination or interview;

24 (c) Be informed, upon the request of a survivor, of when the
25 forensic analysis of his or her sexual assault kit and other related
26 physical evidence will be or was completed, the results of the
27 forensic analysis, and whether the analysis yielded a DNA profile and
28 match, provided that the disclosure is made at an appropriate time so
29 as to not impede or compromise an ongoing investigation;

30 (d) Receive notice prior to the destruction or disposal of his or
31 her sexual assault kit;

32 (e) Receive a copy of the police report related to the
33 investigation without charge; and

34 (f) Review his or her statement before law enforcement refers a
35 case to the prosecuting attorney.

36 (2) A sexual assault survivor retains all the rights of this
37 section regardless of whether the survivor agrees to participate in
38 the criminal justice system and regardless of whether the survivor
39 agrees to receive a forensic examination to collect evidence.

1 (3) Nothing contained in this section may be construed to provide
2 grounds for error in favor of a criminal defendant in a criminal
3 proceeding, nor may anything in this section be construed to grant a
4 new cause of action or remedy against the state, its political
5 subdivisions, law enforcement agencies, or prosecuting attorneys. The
6 failure of a person to make a reasonable effort to protect or adhere
7 to the rights enumerated in this section may not result in civil
8 liability against that person. This section does not limit other
9 civil remedies or defenses of the sexual assault survivor or the
10 offender.

11 (4) For the purposes of this section:

12 (a) "Law enforcement officer" means a general authority
13 Washington peace officer, as defined in RCW 10.93.020, or any person
14 employed by a private police agency at a public school as described
15 in RCW 28A.150.010 or an institution of higher education, as defined
16 in RCW 28B.10.016.

17 (b) "Sexual assault survivor" means any person who is a victim,
18 as defined in RCW 7.69.020, of sexual assault. However, if a victim
19 is incapacitated, deceased, or a minor, sexual assault survivor also
20 includes any lawful representative of the victim, including a parent,
21 guardian, spouse, or other designated representative, unless the
22 person is an alleged perpetrator or suspect.

23 (c) "Sexual assault survivor's advocate" means any person who is
24 defined in RCW 5.60.060 as a sexual assault advocate, or a crime
25 victim advocate.

26 NEW SECTION. **Sec. 6.** The office of the attorney general is
27 authorized and encouraged to facilitate the hosting of the sexual
28 assault kit initiative summit in conjunction with any conditions of
29 federal funds granted to the state through the sexual assault kit
30 initiative. The attorney general may use its contracting authority
31 and use, when appropriate, public and private moneys for the purpose
32 of hosting the summit.

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