

ESHB 1109 - S AMD 497

By Senators Dhingra, Padden

ADOPTED 03/29/2021

1 Beginning on page 1, line 5, strike all of section 1 and insert
2 the following:

3 **"Sec. 1.** RCW 5.70.005 and 2020 c 26 s 2 are each amended to read
4 as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Amplified DNA" means DNA generated during scientific
8 analysis using a polymerase chain reaction.

9 (2) "Association" means the Washington association of sheriffs
10 and police chiefs.

11 (3) "DNA work product" means (a) product generated during the
12 process of scientific analysis of such material, except amplified
13 DNA, material that had been subjected to DNA extraction, screening
14 by-products, and DNA extracts from reference samples; or (b) any
15 material contained on a microscope slide, swab, in a sample tube,
16 cutting, DNA extract, or some other similar retention method used to
17 isolate potential biological evidence that has been collected by law
18 enforcement or a forensic nurse as part of an investigation and
19 prepared for scientific analysis, whether or not it is submitted for
20 scientific analysis and derived from:

- 21 (i) The contents of a sexual assault examination kit;
- 22 (ii) Blood;
- 23 (iii) Semen;
- 24 (iv) Hair;
- 25 (v) Saliva;
- 26 (vi) Skin tissue;
- 27 (vii) Fingerprints;
- 28 (viii) Bones;
- 29 (ix) Teeth; or
- 30 (x) Any other identifiable human biological material or physical
31 evidence.

1 Notwithstanding the foregoing, "DNA work product" does not
2 include a reference sample collected unless it has been shown through
3 DNA comparison to associate the source of the sample with the
4 criminal case for which it was collected.

5 ~~((3))~~ (4) "Governmental entity" means any general law
6 enforcement agency or any person or organization officially acting on
7 behalf of the state or any political subdivision of the state
8 involved in the collection, examination, tracking, packaging,
9 storing, or disposition of biological material collected in
10 connection with a criminal investigation relating to a felony
11 offense.

12 ~~((4))~~ (5) "Investigational status" means:

13 (a) The agency case or incident number;

14 (b) The date the request for forensic examination of the sexual
15 assault kit was submitted to the Washington state patrol crime
16 laboratory;

17 (c) The date the forensic examination was complete and reported
18 to the law enforcement agency;

19 (d) Whether the case is open or closed;

20 (e) Whether the case was reopened as a result of the hit in the
21 combined DNA index system;

22 (f) For open cases, whether the case remains:

23 (i) An active investigation;

24 (ii) Open pending forensic examination results; or

25 (iii) Open and inactive, in which case the agency must include a
26 brief description as to why the case is inactive; and

27 (g) For closed cases, whether the case was closed as a result of:

28 (i) A referral for prosecution where charges were filed or the
29 prosecutor is reviewing the case;

30 (ii) A referral for prosecution where the prosecutor declined to
31 file charges based on the case being legally insufficient;

32 (iii) A referral for prosecution where the prosecutor declined to
33 file charges because the case failed to meet prosecutorial charging
34 standards;

35 (iv) After reviewing the results of the forensic examination,
36 there was no evidence that a crime occurred, or there was lack of
37 probable cause that a crime occurred;

38 (v) The inability to locate the victim or lack of victim
39 participation; or

1 (vi) Any other reason, in which case the agency must include a
2 brief description as to why the case closed.

3 (6) "Reference sample" means a known sample collected from an
4 individual by a governmental entity for the purpose of comparison to
5 DNA profiles developed in a criminal case.

6 ~~((+5))~~ (7) "Screening by-product" means a product or waste
7 generated during examination of DNA evidence, or the screening
8 process of such evidence, that is not intended for long-term storage.

9 ~~((+6))~~ (8) "Sexual assault kit" includes all evidence collected
10 during a sexual assault medical forensic examination.

11 ~~((+7))~~ (9) "Unreported sexual assault kit" means a sexual
12 assault kit where a law enforcement agency has not received a related
13 report or complaint alleging a sexual assault or other crime has
14 occurred."

15 On page 2, line 39, after "general" strike "may" and insert
16 "shall"

17 On page 3, line 4, after "under" strike "section 1(2)(b) of this
18 act" and insert "RCW 5.70.005(5)"

19 On page 3, line 8, after "the" strike all material through
20 "chiefs" and insert "association"

21 On page 3, after line 14, insert the following:

22 "(3) The attorney general's office shall report quarterly to the
23 association the investigational status of any sexual assault kit
24 under RCW 5.70.050.

25 (4) Beginning in 2022, in consultation with the attorney
26 general's office, the association must submit reports on the
27 information collected pursuant to this section to the governor and
28 appropriate committees of the legislature by January 1st and July 1st
29 of each year."

30 On page 7, after line 17, insert the following:

31 "NEW SECTION. Sec. 5. This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of
33 the state government and its existing public institutions, and takes
34 effect immediately."

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1 On page 1, beginning on line 1 of the title, after "assault;"
2 strike "amending RCW 43.101.278 and 70.125.110; and adding new
3 sections to chapter 5.70 RCW" and insert "amending RCW 5.70.005,
4 43.101.278, and 70.125.110; adding a new section to chapter 5.70 RCW;
5 and declaring an emergency"

EFFECT: (1) Removes the requirement for the WA Association of Sheriffs and Police Chiefs to collect information on the investigational status of sexual assault cases.

(2) The attorney general shall request information from law enforcement where analysis of a sexual assault kit results in a hit in the DNA index system.

(3) The AG shall report quarterly to the association on the investigational status of any sexual assault kit.

(4) The association must report to the governor and legislature by January 1st and July 1st of each year.

(5) Adds an emergency clause.

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