

D R A F T

SUMMARY

Modifies definition of “anonymous kit” in reference to testing of sexual assault forensic evidence kits. Provides that when victim who did not previously participate with law enforcement agency to create report of sexual assault participates at later time, kit is automatically reclassified as non-anonymous.

A BILL FOR AN ACT

Relating to classification of sexual assault forensic kits; amending sections 2 and 4, chapter 89, Oregon Laws 2016.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2, chapter 89, Oregon Laws 2016, is amended to read:

Sec. 2. As used in sections 2 to 5, **chapter 89, Oregon Laws 2016** [*of this 2016 Act*]:

(1) “Anonymous kit” means a sexual assault forensic evidence kit collected from a victim who [*either has not made a decision whether or not to participate in the prosecution of the perpetrator of the sexual assault or has chosen not to participate in the prosecution of the perpetrator of the sexual assault*] **has not participated with a law enforcement agency in the creation of a report of the sexual assault.**

(2) “Law enforcement agency” has the meaning given that term in ORS 133.741.

(3) “Medical facility” means a hospital, clinic, urgent care center or any other facility that is authorized to provide sexual assault medical assessments as described in ORS 147.395.

(4) “Sexual assault” means the commission of or the attempted commis-

1 sion of an offense described in ORS 163.355 to 163.427.

2 (5) "Sexual assault forensic evidence kit" means forensic evidence col-
3 lected using an evidence collection kit during a sexual assault medical as-
4 sessment as described in ORS 147.395.

5 (6) "Victim" means a person from whom a sexual assault forensic evidence
6 kit has been collected.

7 **SECTION 2.** Section 4, chapter 89, Oregon Laws 2016, as amended by
8 section 6, chapter 89, Oregon Laws 2016, is amended to read:

9 **Sec. 4.** (1) Each law enforcement agency within this state shall have
10 policies and procedures concerning the collection, submission for testing,
11 retention and destruction of sexual assault forensic evidence kits. The poli-
12 cies and procedures must be in writing, must be made available to the public
13 as soon as possible upon request and must include:

14 (a) Procedures for investigating reports of sexual assault.

15 (b) A time limit by which the law enforcement agency must obtain a
16 sexual assault forensic evidence kit from a medical facility that is within
17 seven days after the medical facility notifies the agency that the kit has been
18 collected.

19 (c) A time limit by which a sexual assault forensic evidence kit must be
20 submitted to the Department of State Police for testing that is within 14 days
21 after taking possession of the kit from a medical facility.

22 (d) A requirement that the law enforcement agency submit to the depart-
23 ment information sufficient to allow the department to prioritize the testing
24 of a sexual assault forensic evidence kit according to the rules of the de-
25 partment.

26 (e) A prohibition on the submission of an anonymous kit to the depart-
27 ment for testing.

28 (f) A requirement that all sexual assault forensic evidence kits, including
29 anonymous kits, be retained for no less than 60 years after the collection of
30 the evidence.

31 **(g) A requirement that when a victim who did not previously par-**

1 **ticipate with a law enforcement agency in the creation of a report of**
2 **a sexual assault participates in the creation of a report of the sexual**
3 **assault at a later time, the sexual assault forensic evidence kit asso-**
4 **ciated with the report must be reclassified as a nonanonymous kit.**

5 (2) Each law enforcement agency within this state shall have policies and
6 procedures concerning contact with the victims and the provision of infor-
7 mation to victims concerning sexual assault forensic evidence kits. The pol-
8 icies and procedures must include:

9 (a) A requirement that the agency designate at least one person within
10 the agency to receive all telephone inquiries concerning sexual assault
11 forensic evidence kits and to serve as a liaison between the agency and the
12 Department of State Police.

13 (b) A requirement that, at the time that a sexual assault forensic evidence
14 kit is collected, a victim be provided with the contact information of a per-
15 son described in paragraph (a) of this subsection.

16 (c) Provisions allowing sexual assault victims to request and receive in-
17 formation concerning sexual assault forensic evidence kits, including but not
18 limited to the location, testing date and testing results of a kit, whether a
19 DNA sample was obtained from the kit, whether or not there are matches
20 to DNA profiles in state or federal databases and the estimated destruction
21 date for the kit.

22 (d) A requirement that a person described in paragraph (a) of this sub-
23 section provide, in response to a victim inquiry concerning a sexual assault
24 forensic evidence kit, any information the victim requests in a manner of
25 communication designated by the victim, as soon as possible and within 30
26 days of the inquiry, unless the agency declines to provide the information
27 pursuant to paragraph (e) of this subsection.

28 (e) Provisions allowing the agency to decline to provide information that
29 interferes with the investigation or prosecution of a case.

30 (f) A procedure that allows a sexual assault victim to provide the agency
31 with written authorization for a designee to access information on the

1 victim's behalf.

2 (g) Provisions allowing a victim to contact a person described in para-
3 graph (a) of this subsection **in order** to [*request that an untested nonanony-*
4 *mous kit be reclassified as an anonymous kit, or an untested anonymous kit*
5 *be reclassified as a nonanonymous kit, and a requirement that the agency no-*
6 *tify the department of the reclassification*] **participate with the law**
7 **enforcement agency in the creation of a report of the sexual assault**
8 **associated with the sexual assault forensic evidence kit.**

9
