

Enrolled Senate Bill 960

Sponsored by COMMITTEE ON JUDICIARY

CHAPTER

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 commission of an offense described in ORS 163.355 to 163.427.

(5) "Sexual assault forensic evidence kit" means forensic evidence collected using an evidence collection kit during a sexual assault medical assessment as described in ORS 147.395.

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

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

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

(a) Procedures for investigating reports of sexual assault.

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

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

(d) A requirement that the law enforcement agency submit to the department information sufficient to allow the department to prioritize the testing of a sexual assault forensic evidence kit according to the rules of the department.

(e) A prohibition on the submission of an anonymous kit to the department for testing.

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

(g) A requirement that when a victim who did not previously participate with a law enforcement agency in the creation of a report of a sexual assault participates in the creation of a report of the sexual assault at a later time, the sexual assault forensic evidence kit associated with the report must be reclassified as a nonanonymous kit.

(h) A requirement that when a sexual assault forensic evidence kit is reclassified as a nonanonymous kit as described in paragraph (g) of this subsection, the law enforcement agency in possession of the kit shall submit the kit to the department for testing within 14 days of the reclassification.

(2) Each law enforcement agency within this state shall have policies and procedures concerning contact with the victims and the provision of information to victims concerning sexual assault forensic evidence kits. The policies and procedures must include:

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

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

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

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

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

(f) A procedure that allows a sexual assault victim to provide the agency with written authorization for a designee to access information on the victim's behalf.

(g) Provisions allowing a victim to contact a person described in paragraph (a) of this subsection **in order** to [*request that an untested nonanonymous kit be reclassified as an anonymous kit, or an untested anonymous kit be reclassified as a nonanonymous kit, and a requirement that the agency notify the department of the reclassification*] **participate with the law enforcement agency in the creation of a report of the sexual assault associated with the sexual assault forensic evidence kit.**

Passed by Senate May 2, 2017

.....
Lori L. Brocker, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House June 1, 2017

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2017

Approved:

.....M,....., 2017

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2017

.....
Dennis Richardson, Secretary of State