

Enrolled
House Bill 4049

Sponsored by Representative BARKER; Representatives HAYDEN, HELFRICH, MCLAIN, PARRISH, PILUSO, WHISNANT, Senator JOHNSON (Presession filed.)

CHAPTER

AN ACT

Relating to sexual assault forensic evidence kits; creating new provisions; amending sections 7 and 8, chapter 89, Oregon Laws 2016; and declaring an emergency.

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

SECTION 1. Section 2 of this 2018 Act is added to and made a part of ORS 181A.323 to 181A.326.

SECTION 2. (1) The Department of State Police shall establish a multidisciplinary committee on the tracking of sexual assault forensic evidence kits. The committee shall:

(a) Develop recommendations for establishing a statewide electronic sexual assault forensic evidence kit tracking system.

(b) Identify and pursue state and federal funding to establish the tracking system, including grants.

(c) Be composed of members that include law enforcement professionals, crime lab personnel, prosecutors, victim advocates, victim attorneys, survivors and Sexual Assault Nurse Examiners or Sexual Assault Forensic Examiners.

(d) Monitor the tracking system's implementation for at least two years and recommend necessary modifications.

(2) The department shall implement the recommendations of the multidisciplinary committee and create and maintain the statewide electronic sexual assault forensic evidence kit tracking system. The department may contract with public or private entities, including but not limited to private software and technology providers, for the creation, operation and maintenance of the tracking system. The tracking system must:

(a) Record the status of sexual assault forensic evidence kits from the collection site throughout the criminal justice process, including but not limited to the initial collection at medical facilities, inventory and storage by law enforcement agencies or crime labs, analysis at crime laboratories and storage or destruction after completion or analysis.

(b) Allow all agencies or facilities that receive, maintain, store or preserve sexual assault forensic evidence kits to update the status and location of the kits.

(c) Allow a victim of sexual assault, or a parent or guardian of a victim if the victim is a minor, to anonymously access the system and to receive updates regarding the location of the victim's sexual assault forensic evidence kit and the status of analysis, including but not limited to the initiation and completion of testing.

(d) Use electronic technology that allows continuous access to the tracking system by victims, medical facilities, law enforcement agencies, prosecutors, private laboratories and crime laboratories.

(3)(a) The department may phase in the requirement of initial participation in the tracking system according to region, volume of sexual assault forensic evidence kits or other appropriate classifications.

(b) Notwithstanding paragraph (a) of this subsection, all law enforcement agencies, medical facilities, crime laboratories and other facilities that receive, maintain, store or preserve sexual assault forensic evidence kits are required to fully participate in the tracking system within one year of the tracking system's initial date of operation.

(4) Records and information within the tracking system described in this section are exempt from disclosure under ORS 192.311 to 192.478.

SECTION 3. No later than January 1, 2019, the Department of State Police shall submit a report on the status of the statewide electronic sexual assault forensic evidence kit tracking system described in section 2 of this 2018 Act, including plans concerning the launch and implementation of the tracking system, to the Task Force on the Testing of Sexual Assault Forensic Evidence Kits established by section 7, chapter 89, Oregon Laws 2016, and to the Governor and Attorney General.

SECTION 4. Section 7, chapter 89, Oregon Laws 2016, is amended to read:

Sec. 7. (1) The Task Force on the Testing of Sexual Assault Forensic Evidence Kits is established.

(2) The task force consists of 16 members appointed as follows:

(a) The President of the Senate, in consultation with the Senate Minority Leader, shall appoint two nonvoting members from among members of the Senate. The two members appointed under this paragraph may not be from the same political party.

(b) The Speaker of the House of Representatives, in consultation with the House Minority Leader, shall appoint two nonvoting members from among members of the House of Representatives. The two members appointed under this paragraph may not be from the same political party.

(c) The Governor shall appoint 12 members as follows:

(A) The coordinator of the Attorney General's Sexual Assault Task Force.

(B) Two survivors of sexual assault with experience with the sexual assault forensic evidence kit collection.

(C) A sexual assault nurse examiner.

(D) A person designated by the Superintendent of State Police who has expertise in the analysis of sexual assault forensic evidence kits.

(E) A person with experience seeking and applying for grants and other private funding.

(F) A person representing law enforcement agencies located in rural jurisdictions.

(G) A person representing law enforcement agencies located in urban jurisdictions.

(H) A person representing the Oregon Association Chiefs of Police.

(I) An attorney with experience prosecuting crimes.

(J) An attorney with experience in criminal defense.

(K) A sexual assault victims' advocate from a community-based organization.

(3) The task force shall:

(a) Examine the process for gathering and analyzing sexual assault forensic evidence kits in this state;

(b) Examine and identify improvements for law enforcement training on responding to and investigating sexual assaults;

(c) Examine and identify improvements for victim access to evidence other than sexual assault forensic evidence kits, including but not limited to police reports and other physical evidence;

(d) Examine and identify possible procedures for the testing of anonymous kits;

(e) Examine and identify additional rights of victims concerning the sexual assault forensic evidence kit testing process; [and]

(f) Identify and pursue grants and other funding sources in order to eliminate the backlog of untested sexual assault forensic evidence kits, reduce testing wait times, provide victim notification and improve efficiencies in the kit testing process[.]; **and**

(g) Monitor the implementation of the sexual assault forensic evidence kit tracking system described in section 2 of this 2018 Act.

(4) A majority of the voting members of the task force constitutes a quorum for the transaction of business.

(5) Official action by the task force requires the approval of a majority of the voting members of the task force.

(6) The task force shall elect one of its members to serve as chairperson.

(7) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(8) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the voting members of the task force.

(9) The task force may adopt rules necessary for the operation of the task force.

(10)(a) The task force shall complete the duties described in subsection (3) of this section no later than July 31, [2018] **2020**.

(b) The task force shall submit, in the manner provided by ORS 192.245, **to an interim committee of the Legislative Assembly related to the judiciary:**

(A) A report that includes recommendations for legislation [*to an interim committee of the Legislative Assembly related to the judiciary*] no later than December 1, 2018.

(B) A final report that includes a status update on the implementation of the sexual assault forensic evidence kit tracking system and recommendations for legislation no later than December 1, 2020.

(11) The [*Committee Services office of the Legislative Assembly*] **Legislative Policy and Research Director** shall provide staff support to the task force.

(12) Members of the task force who are not members of the Legislative Assembly are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions of the task force shall be paid out of funds appropriated to the [*Committee Services office of the Legislative Assembly*] **Legislative Policy and Research Director** for purposes of the task force.

(13) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of the task force's duties and, to the extent permitted by laws relating to confidentiality, to furnish information and advice the members of the task force consider necessary to perform their duties.

SECTION 5. Section 8, chapter 89, Oregon Laws 2016, is amended to read:

Sec. 8. Section 7, [*of this 2016 Act*] **chapter 89, Oregon Laws 2016**, is repealed on June 30, [2019] **2021**.

SECTION 6. (1) Section 2 of this 2018 Act becomes operative 90 days after the effective date of this 2018 Act.

(2) **The Department of State Police may adopt rules and take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the department, on and after the operative date specified in subsection (1) of this section, to exercise all of the duties, functions and powers conferred on the department by section 2 of this 2018 Act.**

SECTION 7. Section 3 of this 2018 Act is repealed on February 1, 2019.

SECTION 8. This 2018 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect on its passage.

Passed by House March 1, 2018

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate March 2, 2018

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2018

Approved:

.....M,....., 2018

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2018

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Dennis Richardson, Secretary of State