

B-Engrossed
House Bill 4049

Ordered by the House March 1
Including House Amendments dated February 19 and March 1

Sponsored by Representative BARKER; Representatives MCLAIN, PILUSO, WHISNANT (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Directs Department of State Police to establish multidisciplinary committee on tracking of sexual assault forensic evidence kits. Directs department to adopt recommendations of committee and to create and maintain statewide electronic sexual assault forensic evidence kit tracking system. Establishes requirements of tracking system. Exempts records and information within tracking system from disclosure as public record.

Directs department to, no later than January 1, 2019, report on status of tracking system to Task Force on the Testing of Sexual Assault Forensic Evidence Kits and to Governor and Attorney General.

Extends sunset of Task Force on the Testing of Sexual Assault Forensic Evidence Kits to June 30, 2021. Directs task force to monitor implementation of tracking system and to, no later than December 1, 2020, submit to interim committee of Legislative Assembly related to judiciary final report that includes status update on tracking system.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to sexual assault forensic evidence kits; creating new provisions; amending sections 7 and
3 8, chapter 89, Oregon Laws 2016; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2018 Act is added to and made a part of ORS 181A.323 to**
6 **181A.326.**

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

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

11 (b) **Identify and pursue state and federal funding to establish the tracking system, in-**
12 **cluding grants.**

13 (c) **Be composed of members that include law enforcement professionals, crime lab per-**
14 **sonnel, prosecutors, victim advocates, victim attorneys, survivors and Sexual Assault Nurse**
15 **Examiners or Sexual Assault Forensic Examiners.**

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

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

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

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

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

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

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

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

21 (4) Records and information within the tracking system described in this section are ex-
22 empt from disclosure under ORS 192.311 to 192.478.

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

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

30 **Sec. 7.** (1) The Task Force on the Testing of Sexual Assault Forensic Evidence Kits is estab-
31 lished.

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

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

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

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

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

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

43 (C) A sexual assault nurse examiner.

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

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

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

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

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

5 (I) An attorney with experience prosecuting crimes.

6 (J) An attorney with experience in criminal defense.

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

8 (3) The task force shall:

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

11 (b) Examine and identify improvements for law enforcement training on responding to and in-
12 vestigating sexual assaults;

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

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

16 (e) Examine and identify additional rights of victims concerning the sexual assault forensic evi-
17 dence kit testing process; *[and]*

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

21 **(g) Monitor the implementation of the sexual assault forensic evidence kit tracking sys-**
22 **tem described in section 2 of this 2018 Act.**

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

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

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

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

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

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

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

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

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

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

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

44 (12) Members of the task force who are not members of the Legislative Assembly are not enti-
45 tled to compensation, but may be reimbursed for actual and necessary travel and other expenses

1 incurred by them in the performance of their official duties in the manner and amounts provided for
2 in ORS 292.495. Claims for expenses incurred in performing functions of the task force shall be paid
3 out of funds appropriated to the [*Committee Services office of the Legislative Assembly*] **Legislative**
4 **Policy and Research Director** for purposes of the task force.

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

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

10 **Sec. 8.** Section 7, [*of this 2016 Act*] **chapter 89, Oregon Laws 2016**, is repealed on June 30,
11 [2019] **2021**.

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

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

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

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