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MEMORANDUM

TO: Honorable Sen. Prozanski, Chair

FROM: Aaron Knott, MCDA Policy Director

SUBJECT: Testimony in support of SB 1574

DATE: February 9, 2022

BACKGROUND

Under Oregon law, a victim of a sexual assault who undergoes a forensic medical evaluation will typically interact with a Sexual Assault Nurse Examiner, or SANE. This process results in the collection and retention of any forensic evidence associated with sexual assault in the form of a Sexual Assault Forensic Evidence Kit, or SAFE kit. These SAFE kits are then sent to the Oregon State Police and retained for possible later investigative or prosecutorial use. The SAFE kits are required by statute to be retained for 60 years following their collection. The retention of this evidence serves a range of purposes, including allowing a criminal prosecution to occur at a later date, especially in cases where the assailant is not immediately identified.

However, there is a loophole in existing law that can lead to the loss of crucial data needed to fully utilize these SAFE kits. While a SAFE kit is required to be retained, the notes of the SANE are not required to be retained as part of the SAFE kit. If the testimony of the SANE is later necessary in order to establish the facts of the examination, this can result in situations where the SANE cannot review their observations or refresh their recollections of an examination that may have happened years prior. Moreover, the absence of these records fail to provide the full facts of an examination for prosecution. This loophole diminishes the ability of the prosecution to move forward on a case with all competent evidence, which in turn reduces the ability of a victim of sexual assault to pursue justice.

SB 1574 CLOSES THIS UNINTENDED LOOPHOLE

Victims of sexual assault should be afforded absolute confidence that when they seek services in the aftermath of what is often one of the worst moments of their lives, all necessary processes are in place to ensure that those services contribute to their healing. That includes retaining the full evidence needed to hold their perpetrators accountable.

SB 1754-1 clarifies that the chart and other notes prepared by the SANE as part of the their evaluation be retained as part of the SAFE kit and subjected to the same 60 year retention period. The bill does not in any way modify the privacy rights of the victim/survivor, nor impact their ability to receive medical care. This is a small change, but one that can truly make an existential difference for a survivor seeking justice years following an assault. We urge the passage of SB 1574-1.

Contact: Aaron Knott – Policy Director (aaron.knott@mcdca.us).