

RCW 5.70.040 Sexual assault kits—Request for laboratory examination—Report to the legislature. (1) When a law enforcement agency receives a sexual assault kit, the law enforcement agency must, within thirty days of its receipt, submit a request for laboratory examination to the Washington state patrol crime laboratory for prioritization for testing by it or another accredited laboratory that holds an outsourcing agreement with the Washington state patrol if:

- (a) The law enforcement agency has received a related report or complaint alleging a sexual assault or other crime has occurred; and
- (b) (i) Consent for laboratory examination has been given by the victim; or
- (ii) The victim is a person under the age of eighteen who is not emancipated pursuant to chapter 13.64 RCW.

(2) Beginning May 1, 2022, when the Washington state patrol receives a request for laboratory examination of a sexual assault kit from a law enforcement agency, the Washington state patrol shall conduct the laboratory examination of the sexual assault kit, and when appropriate, enter relevant information into the combined DNA index system, within forty-five days of receipt of the request. The Washington state patrol crime laboratory must give priority to the laboratory examination of sexual assault kits at the request of a local law enforcement agency for:

- (a) Active investigations and cases with impending court dates;
- (b) Active investigations where public safety is an immediate concern;
- (c) Violent crimes investigations, including active sexual assault investigations;
- (d) Postconviction cases; and
- (e) Other crimes' investigations and nonactive investigations, such as previously unsubmitted older sexual assault kits or recently collected sexual assault kits that the submitting agency has determined to be lower priority based on their initial investigation.

(3) The requirements to request and complete laboratory examination of sexual assault kits under subsections (1) and (2) of this section do not include forensic toxicological analysis. However, nothing in this section limits or modifies the authority of a law enforcement agency to request toxicological analysis of evidence collected in a sexual assault kit.

(4) The failure of a law enforcement agency to submit a request for laboratory examination, or the failure of the Washington state patrol to facilitate laboratory examination, within the time periods prescribed under this section does not constitute grounds in any criminal proceeding for challenging the validity of a DNA evidence association, and any evidence obtained from the sexual assault kit may not be excluded by a court on those grounds.

(5) A person accused or convicted of committing a crime against a victim has no standing to object to any failure to comply with the requirements of this section, and the failure to comply with the requirements of this section is not grounds for setting aside the conviction or sentence.

(6) Nothing in this section may be construed to create a private right of action or claim on the part of any individual, entity, or agency against any law enforcement agency or any contractor of any law enforcement agency.

(7) This section applies to sexual assault examinations performed on or after July 24, 2015.

(8) (a) Until June 30, 2023, the Washington state patrol shall compile the following information related to the sexual assault kits identified in this section and RCW 5.70.050:

(i) The number of requests for laboratory examination made for sexual assault kits and the law enforcement agencies that submitted the requests; and

(ii) The progress made towards testing the sexual assault kits, including the status of requests for laboratory examination made by each law enforcement agency.

(b) The Washington state patrol shall make recommendations for increasing the progress on testing any untested sexual assault kits.

(c) Beginning in 2015, the Washington state patrol shall report its findings and recommendations annually to the appropriate committees of the legislature and the governor by December 1st of each year. [2020 c 26 § 4; 2019 c 93 § 6; 2015 c 247 § 1. Formerly RCW 70.125.090.]

Intent—2020 c 26: See note following RCW 63.21.090.