

Senate Bill 1571

Sponsored by Senators GELSER, PROZANSKI, MONNES ANDERSON, Representatives OLSON, LININGER, GALLEGOS, HUFFMAN, GOMBERG, BUEHLER, PARRISH, KENY-GUYER, PILUSO, READ, RAYFIELD, NEARMAN, TAYLOR, KRIEGER, BARKER, SPRENGER, WILLIAMSON, Senators DEVLIN, KNOPP, RILEY, ROBLAN, ROSENBAUM, SHIELDS, STEINER HAYWARD, THATCHER; Senator JOHNSON, Representative WILSON (Presession 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 **as introduced**.

Directs Department of State Police to adopt rules concerning prioritization of testing untested sexual assault forensic evidence kits. Requires department to test untested kits in accordance with rules. Directs department to report to interim committees of Legislative Assembly related to judiciary concerning untested kits no later than January 15 of each year.

Directs law enforcement agencies to adopt policies and procedures no later than January 1, 2017, concerning collection, testing, retention and destruction of sexual assault forensic evidence kits and provision of information to victims. Specifies certain contents of policies and procedures.

Establishes Task Force on the Testing of Sexual Assault Forensic Evidence Kits. Directs task force to examine testing process within state and identify grants and other funding sources. Directs task force to report to interim committee of Legislative Assembly related to judiciary by December 1, 2018. Sunsets task force on June 30, 2019.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to sexual assault forensic evidence kits; and declaring an emergency.

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

4 **SECTION 1. Sections 2 to 4 of this 2016 Act shall be known and may be cited as**
5 **“Melissa’s Law.”**

6 **SECTION 2. As used in sections 2 to 4 of this 2016 Act:**

7 (1) **“Anonymous kit” means a sexual assault forensic evidence kit collected from a victim**
8 **who either has not made a decision whether or not to participate in the prosecution of the**
9 **perpetrator of the sexual assault or has chosen not to participate in the prosecution of the**
10 **perpetrator of the sexual assault.**

11 (2) **“Law enforcement agency” has the meaning given that term in ORS 131.550.**

12 (3) **“Medical facility” means a hospital, clinic, urgent care center or any other facility**
13 **that is authorized to provide sexual assault medical assessments as described in ORS 147.395.**

14 (4) **“Sexual assault” means the commission of or the attempted commission of an offense**
15 **described in ORS 163.355 to 163.427.**

16 (5) **“Sexual assault forensic evidence kit” means forensic evidence collected using an ev-**
17 **idence collection kit during a sexual assault medical assessment as described in ORS 147.395.**

18 (6) **“Victim” means a person who has made a report of a sexual assault and who has**
19 **provided a sexual assault forensic evidence kit.**

20 **SECTION 3. (1) The Department of State Police shall adopt rules concerning the**
21 **prioritization of testing untested sexual assault forensic evidence kits in the department’s**
22 **possession. The rules must contain a prohibition on the testing of anonymous kits.**

23 (2) **The department shall test any untested sexual assault forensic evidence kits, other**

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 than anonymous kits, in the department's possession in accordance with the rules adopted
2 pursuant to subsection (1) of this section.

3 (3) The department shall designate a person to receive inquiries from law enforcement
4 agencies and victims seeking information concerning the testing of sexual assault forensic
5 evidence kits.

6 (4) No later than July 1, 2018, the department shall ensure that the results from testing
7 sexual assault forensic evidence kits that are eligible to be entered into the Combined DNA
8 Index System are entered into the system immediately after the testing results are obtained.

9 (5) No later than January 15 of each calendar year, the department shall provide a writ-
10 ten report to the interim committees of the Legislative Assembly related to the judiciary in
11 the manner provided in ORS 192.245. The report must detail the progress made on the
12 backlog of untested sexual assault forensic evidence kits and include the number of new kits
13 that have been received during the previous calendar year, the number of kits that have been
14 tested during the previous calendar year, and the number of remaining untested kits in the
15 possession of the department.

16 SECTION 4. (1) No later than January 1, 2017, each law enforcement agency within this
17 state shall adopt policies and procedures concerning the collection, submission for testing,
18 retention and destruction of sexual assault forensic evidence kits. The policies and proce-
19 dures must include:

20 (a) Procedures for investigating reports of sexual assault.

21 (b) A time limit by which the law enforcement agency must obtain a sexual assault
22 forensic evidence kit from a medical facility that is within seven days after the collection of
23 the evidence.

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

27 (d) A requirement that the law enforcement agency submit to the department informa-
28 tion sufficient to allow the department to prioritize the testing of a sexual assault forensic
29 evidence kit according to the rules of the department.

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

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

33 (2) No later than January 1, 2017, each law enforcement agency within this state shall
34 adopt policies and procedures concerning the provision of information to victims concerning
35 sexual assault forensic evidence kits. The policies and procedures must include:

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

39 (b) A requirement that, at the time that a sexual assault forensic evidence kit is col-
40 lected, a victim be provided with the contact information of the person described in para-
41 graph (a) of this subsection.

42 (c) Provisions allowing sexual assault victims to request and receive information con-
43 cerning sexual assault forensic evidence kits, including but not limited to the location, test-
44 ing date and testing results of a kit, whether a DNA sample was obtained from the kit,
45 whether or not there are matches to DNA profiles in state or federal databases and the es-

1 **timated destruction date for the kit.**

2 **(d) A requirement that the person described in paragraph (a) of this subsection respond**
 3 **to a victim inquiry concerning a sexual assault forensic evidence kit, in a manner of com-**
 4 **munication designated by the victim, without unnecessary delay and within 30 days of the**
 5 **inquiry.**

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

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

10 **SECTION 5.** Section 4 of this 2016 Act is amended to read:

11 **Sec. 4.** (1) *[No later than January 1, 2017,]* Each law enforcement agency within this state shall
 12 *[adopt]* **have** policies and procedures concerning the collection, submission for testing, retention and
 13 destruction of sexual assault forensic evidence kits. The policies and procedures must include:

14 (a) Procedures for investigating reports of sexual assault.

15 (b) A time limit by which the law enforcement agency must obtain a sexual assault forensic
 16 evidence kit from a medical facility that is within seven days after the collection of the evidence.

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

20 (d) A requirement that the law enforcement agency submit to the department information suffi-
 21 cient to allow the department to prioritize the testing of a sexual assault forensic evidence kit ac-
 22 cording to the rules of the department.

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

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

26 (2) *[No later than January 1, 2017,]* Each law enforcement agency within this state shall
 27 *[adopt]* **have** policies and procedures concerning the provision of information to victims concerning
 28 sexual assault forensic evidence kits. The policies and procedures must include:

29 (a) A requirement that the agency designate one person within the agency to receive all tele-
 30 phone inquiries concerning sexual assault forensic evidence kits and to serve as a liaison between
 31 the agency and the Department of State Police.

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

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

40 (d) A requirement that the person described in paragraph (a) of this subsection respond to a
 41 victim inquiry concerning a sexual assault forensic evidence kit, in a manner of communication
 42 designated by the victim, without unnecessary delay and within 30 days of the inquiry.

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

45 (f) A procedure that allows a sexual assault victim to provide the agency with written authori-

1 zation for a designee to access information on the victim's behalf.

2 **SECTION 6. (1) The Task Force on the Testing of Sexual Assault Forensic Evidence Kits**
3 **is established.**

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

5 **(a) The President of the Senate, in consultation with the Senate Minority Leader, shall**
6 **appoint two nonvoting members from among members of the Senate. The two members ap-**
7 **pointed under this paragraph may not be from the same political party.**

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

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

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

14 **(B) Two survivors of sexual assault with experience with the sexual assault forensic ev-**
15 **idence kit collection.**

16 **(C) A sexual assault nurse examiner.**

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

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

20 **(F) A person representing counties within this state.**

21 **(G) A person representing cities within this state.**

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

23 **(I) An attorney with experience prosecuting crimes.**

24 **(J) An attorney with experience in criminal defense.**

25 **(K) A domestic violence victims' advocate.**

26 **(3) The task force shall:**

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

29 **(b) Identify and pursue grants and other funding sources in order to eliminate the back-**
30 **log of untested sexual assault forensic evidence kits, reduce testing wait times, provide vic-**
31 **tim notification and improve efficiencies in the kit testing process.**

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

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

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

37 **(7) If there is a vacancy for any cause, the appointing authority shall make an appoint-**
38 **ment to become immediately effective.**

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

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

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

44 **(b) The task force shall submit, in the manner provided by ORS 192.245, a report that**
45 **includes recommendations for legislation to an interim committee of the Legislative Assem-**

1 bly related to the judiciary no later than December 1, 2018.

2 (11) The Legislative Administration Committee shall provide staff support to the task
3 force.

4 (12) Members of the task force who are not members of the Legislative Assembly are not
5 entitled to compensation, but may be reimbursed for actual and necessary travel and other
6 expenses incurred by them in the performance of their official duties in the manner and
7 amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions
8 of the task force shall be paid out of funds appropriated to the Legislative Administration
9 Committee for purposes of the task force.

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

14 SECTION 7. Section 6 of this 2016 Act is repealed on June 30, 2019.

15 SECTION 8. The amendments to section 4 of this 2016 Act by section 5 of this 2016 Act
16 become operative on January 1, 2017.

17 SECTION 9. This 2016 Act being necessary for the immediate preservation of the public
18 peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect
19 on its passage.

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