

DRAFT

SUMMARY

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

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

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

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

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

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

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

3 (3) “Medical facility” means a hospital, clinic, urgent care center
4 or any other facility that is authorized to provide sexual assault med-
5 ical assessments as described in ORS 147.395.

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

8 (5) “Sexual assault forensic evidence kit” means forensic evidence
9 collected using an evidence collection kit during a sexual assault
10 medical assessment as described in ORS 147.395.

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

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

17 (2) The department shall test any untested sexual assault forensic
18 evidence kits, other than anonymous kits, in the department’s pos-
19 session in accordance with the rules adopted pursuant to subsection
20 (1) of this section.

21 (3) The department shall designate a person to receive inquiries
22 from law enforcement agencies and victims seeking information con-
23 cerning the testing of sexual assault forensic evidence kits.

24 (4) No later than July 1, 2018, the department shall ensure that the
25 results from testing sexual assault forensic evidence kits that are eli-
26 gible to be entered into the Combined DNA Index System are entered
27 into the system immediately after the testing results are obtained.

28 (5) No later than January 15 of each calendar year, the department
29 shall provide a written report to the interim committees of the Legis-
30 lative Assembly related to the judiciary in the manner provided in ORS
31 192.245. The report must detail the progress made on the backlog of

1 **untested sexual assault forensic evidence kits and include the number**
2 **of new kits that have been received during the previous calendar year,**
3 **the number of kits that have been tested during the previous calendar**
4 **year, and the number of remaining untested kits in the possession of**
5 **the department.**

6 **SECTION 4. (1) No later than January 1, 2017, each law enforcement**
7 **agency within this state shall adopt policies and procedures concerning**
8 **the collection, submission for testing, retention and destruction of**
9 **sexual assault forensic evidence kits. The policies and procedures must**
10 **include:**

11 **(a) Procedures for investigating reports of sexual assault.**

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

15 **(c) A time limit by which a sexual assault forensic evidence kit**
16 **must be submitted to the Department of State Police for testing that**
17 **is within 14 days after taking possession of the kit from a medical fa-**
18 **cility.**

19 **(d) A requirement that the law enforcement agency submit to the**
20 **department information sufficient to allow the department to prior-**
21 **itize the testing of a sexual assault forensic evidence kit according to**
22 **the rules of the department.**

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

25 **(f) A requirement that all sexual assault forensic evidence kits, in-**
26 **cluding anonymous kits, be retained for no less than 60 years after the**
27 **collection of the evidence.**

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

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

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

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

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

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

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

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

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

(a) Procedures for investigating reports of sexual assault.

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

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

(d) A requirement that the law enforcement agency submit to the department information sufficient to allow the department to prioritize the testing of a sexual assault forensic evidence kit according to the rules of the department.

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

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

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

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

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

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

(d) A requirement that the person described in paragraph (a) of this subsection respond to a victim inquiry concerning a sexual assault forensic ev-

1 idence kit, in a manner of communication designated by the victim, without
2 unnecessary delay and within 30 days of the inquiry.

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

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

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

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

11 **(a) The President of the Senate, in consultation with the Senate**
12 **Minority Leader, shall appoint two nonvoting members from among**
13 **members of the Senate. The two members appointed under this para-**
14 **graph may not be from the same political party.**

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

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

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

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

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

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

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

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

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

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

2 (I) An attorney with experience prosecuting crimes.

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

4 (K) A domestic violence victims' advocate.

5 (3) The task force shall:

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

8 (b) Identify and pursue grants and other funding sources in order
9 to eliminate the backlog of untested sexual assault forensic evidence
10 kits, reduce testing wait times, provide victim notification and im-
11 prove efficiencies in the kit testing process.

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

14 (5) Official action by the task force requires the approval of a ma-
15 jority of the voting members of the task force.

16 (6) The task force shall elect one of its members to serve as chair-
17 person.

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

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

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

25 (10)(a) The task force shall complete the duties described in sub-
26 section (3) of this section no later than July 31, 2018.

27 (b) The task force shall submit, in the manner provided by ORS
28 192.245, a report that includes recommendations for legislation to an
29 interim committee of the Legislative Assembly related to the judiciary
30 no later than December 1, 2018.

31 (11) The Legislative Administration Committee shall provide staff

1 support to the task force.

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

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

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

16 SECTION 8. The amendments to section 4 of this 2016 Act by section
17 5 of this 2016 Act become operative on January 1, 2017.

18 SECTION 9. This 2016 Act being necessary for the immediate pres-
19 ervation of the public peace, health and safety, an emergency is de-
20 clared to exist, and this 2016 Act takes effect on its passage.