

## Testimony on 2019 Senate Bill 200

Senator Robert Cowles

Senate Committee on Insurance, Financial Services, Government Oversight and Courts  
September 19, 2019

Thank you, Chairman Craig and committee members, for hearing 2019 Senate Bill 200. This bill sets establishes timelines and protocols for nurses and members of law enforcement to prevent a future backlog of sexual assault kits, ensure a proper chain of evidence, preserving of these kits throughout the statute of limitations, and most importantly, provide certainty to sexual assault survivors seeking justice.

We're all familiar with the events that led to the introduction of this legislation. The inability to address the sexual assault kit backlog over the course of decades only allowed the problem to grow and become further exacerbated as Attorneys General of both parties failed to prioritize these kits.

Former Attorney General Brad Schimel had taken steps to address the sexual assault kit backlog by securing funding to clear the backlog. Those efforts should not be understated. Under Attorney General Josh Kaul and local District Attorneys, prosecutions as a result of findings from backlogged evidence are taking place and future prosecutions could still be in the works. While the kit testing delay should not be forgotten, these prosecutions are undoubtedly step in the right direction.

While the cause of the sexual assault kit backlog is a bipartisan and multi-disciplinary failure, I'm proud to be here today as part of a team of co-authors and supporters presenting a solution to prevent a similar circumstances from happening again.

Under current law, no statutory procedure for the collection and processing of sexual assault kit testing exists. Senate Bill 200 creates needed procedures for the transmission, processing, and storage of sexual assault kits. This legislation ensures that health care professionals report the sexual assault to law enforcement within 24 hours of collecting the kit if the survivor wants to report the sexual assault. When law enforcement is notified by a health care professional that a kit has been collected, the law enforcement agency must take possession of the kit within 72 hours and send it to a state crime lab for processing within 14 days. So, from collection to processed in less than three weeks.

Once a state crime lab has taken possession of a sexual assault kit, and consent has been given from the survivor, the kit is processed and sent to the relevant law enforcement agency. Law enforcement must then preserve the evidence in storage for 50 years, until the expiration of the statute of limitations, or until the end of the term of imprisonment or probation of a person convicted in the sexual assault case, whichever is longer.

If a survivor chooses not to report the sexual assault at the time a kit is collected, the health care professional must send the kit to a state crime lab within 72 hours for storage. This statutory certainty should help to ensure those who have experienced a sexual assault will come forward, even if they are fearful of pursuing an investigation and prosecution when they make the decision to seek care. If the survivor changes their mind and chooses to pursue justice, the kit will have been preserved for up to ten years at the state crime lab to allow for testing at a later date.

Finally, Senate Bill 200 ensures that more data, in addition to the data already reported, will be provided on sexual assault kit collection and processing to the state Department of Justice.

In the first three months of 2019 alone, the Sexual Assault Center in Brown County, which is part of my district, served 434 people and helped 127 people during sexual assault nurse exams. Sexual assault is an issue that impacts all of our districts, and sexual assault is also a notoriously underreported crime. Providing clarity and certainty to survivors with evidence collected from a sexual assault may help lead to more survivors seeking justice and may further lead to more successful investigations and prosecutions.

Senate Bill 200 does not impact the definition of classifications of any crimes, nor does it interfere with the justice system which ensures a fair prosecution. Instead, this legislation ensures the proper handling of evidence by mimicking legislation already enacted in twenty other states. Senate Bill 200 is supported by groups representing law enforcement, health care professionals, and sexual assault survivor advocates.

I believe this is a common-sense step that we owe to the survivors of sexual assault to ensure that evidence is handled properly so they can have one less thing on their mind as they deal with the trauma they endured.



September 19, 2019

Chairman Craig and members of the Committee on Insurance, Financial Services, Government Oversight and Courts, thank you for taking the time to hear SB-200 today and this testimony.

Sexual violence has been, and continues to be, a pervasive problem in our society. The statistics behind the prevalence of sexual assault is startling, as an American is sexually assault every 92 seconds. This jarring and frightening statistic only gets worse if you are:

- A woman (1 in every 6 women has been the victim of an attempted or completed rape).
- A college student (Women ages 18-24 who are college students are 3 times more likely than women in general to experience sexual violence).
- A member of our military (Of those who report, 14,900 military members experienced unwanted sexual contact in 2016).
- A member of a tribal nation (Members of a tribal nation are twice as likely to experience sexual violence compared to all races).
- Incarcerated (An estimated 80,600 inmates each year experience sexual violence while in prison or jail).

However, these statistics do not even begin to fully capture the significance of this problem, as three in four sexual assaults go unreported.

We have been talking about this issue for too long, and it is refreshing to see that Wisconsin is now taking bipartisan, common-sense, and pragmatic action to stand up for survivors. SB 220 works to prevent the backlog of untested sexual assault kits by ensuring the proper collection and storage procedures— a crucial step in supporting survivors of sexual violence that sends a clear message that our government recognizes, believes, and stands with survivors.

Further, this legislation will ensure a procedure is in place that upholds survivors' dignity, choice, and the right to a fair and just process, protecting those who choose not to report at the time of an assault, or who change their minds. We know that sexual violence can be a hard conversation to have, and that reporting can be one of the most challenging steps for a sexual assault survivor to take. Survivors deserve the respect to report when they are ready— storing kits for the time frame specified in this legislation provides this respect by taking the traumatic nature of sexual assault into account.

SB 220 works to hold offenders accountable for their crimes and provide justice for survivors. While no piece of legislation can ever erase the trauma of sexual violence, failures to effectively and efficiently collect, submit, and store kits should never be a barrier to justice. This legislation is an important first step to providing victims with affirmation and a path toward justice.

As elected officials, we need to do all that we can to support survivors of sexual assault. I am proud to work with my colleagues in the Legislature, community advocates, and Attorney General Kaul to co-author this vital legislation, and to stand in solidarity with the survivors of sexual violence. I appreciate the committee's consideration on this important issue.



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**PREPARED TESTIMONY OF ATTORNEY GENERAL JOSH KAUL**

Senate Committee on Insurance, Financial Services, Government Oversight and Courts  
Thursday, September 19, 2019

Chairperson Craig, Vice-Chair Stroebel, and Members of the Committee:

Thank you for holding a hearing today on Senate Bill 200 (Assembly Bill 214), legislation that seeks to prevent a future backlog of untested sexual assault kits in Wisconsin.

I would also like to thank Senators Cowles and Schachtner, Representatives Steffen and Sargent, and other members of the legislature who have supported this legislation; the members of the Attorney General's Sexual Assault Response Team, a multi-disciplinary group that played a large role in developing Senate Bill 200; and the Wisconsin Chiefs of Police Association, the Wisconsin Coalition Against Sexual Assault, the Wisconsin Chapter of the International Association of Forensic Nurses, and the Wisconsin Nurses Association, all of which support this legislation.

In many sexual assault cases, evidence is obtained through a sexual assault forensic examination. In some cases, the testing of that evidence can result in the identification of the person who committed the sexual assault. Justice should never be delayed because a sexual assault kit was not submitted—or because there was a lengthy delay before a kit was submitted—to the Wisconsin State Crime Laboratories. Sexual assault is a serious violent crime, and the investigation and prosecution of sexual assault cases must be a priority.

If enacted, Senate Bill 200 will establish a statutory framework for the submission of sexual assault kits to the state crime labs and the retention of sexual assault kits.

Under this proposed legislation, when a health care professional collects a sexual assault kit and the survivor chooses to report the sexual assault to law enforcement or reporting is required, the health care professional must notify law enforcement within 24 hours after collecting the kit. The law enforcement agency would then have 72 hours to obtain the kit from the health care professional, and (unless the survivor notifies the agency that he or she does not want the kit to be tested) 14 days after that to send the kit to the state crime labs.

When a health care professional collects a sexual assault kit, the survivor chooses not to report to law enforcement, and reporting is not required, Senate Bill 200 requires the health care professional to send the kit to the state crime laboratories within 72 hours after collecting the kit. The kit would then be stored for 10 years or until the survivor decides to report the sexual assault to law enforcement.

Senate Bill 200 also would require the Wisconsin Department of Justice to collect information regarding sexual assault kits collected in Wisconsin.

Again, thank you for holding a hearing on this legislation. I am happy to answer any questions that members of the committee may have.





# DAVID STEFFEN

STATE REPRESENTATIVE • 4<sup>TH</sup> ASSEMBLY DISTRICT

September 19, 2019

Chairman Craig and Committee Members,

Thank you for holding a Public Hearing on SB 200 relating to storage and processing of sexual assault kits and requiring the exercise of rule-making authority.

One out of every six American women in her lifetime is a victim of attempted or completed rape. The current backlog in rape kits nationwide underscores a devastating gap in the criminal justice system. In the last decade, hundreds of thousands of rape kits — which include physical and DNA evidence gathered from rape victims — have gone untested because law enforcement agencies around the country are not prioritizing their testing or do not have the resources to do so. The testing of these kits are crucial to identifying perpetrators by demonstrating an individual's culpability in sex crimes.

Recently, the State of Wisconsin completed testing on thousands of previously un-submitted sexual assault kits that had accumulated for many years while in the possession of local law enforcement agencies and hospitals. We need to ensure that all sexual assault kits are processed in the future.

We owe it to sexual assault survivors and their families to ensure that local law enforcement and hospitals submit sexual assault kits to the state crime lab quickly in order to fully integrate them into the Department of Justice's (DOJ) testing process and avoid any unnecessary delays. Every single assault kit that is untested represents a human being who went through an awful trauma, and they deserve to have their case fully investigated.

Under current law, there is no statutory procedure for the collection and processing of sexual assault kits. This lack of a standard process led to a backlog of kits that were not being submitted to the state crime laboratory for testing.

If passed, when a health care professional collects sexual assault evidence, a victim will have the choice to report to law enforcement or not. If a victim does choose to report to law enforcement, under the proposed legislation the health care professional will notify law enforcement within 24 hours after collecting the sexual assault kit. The law enforcement agency then has 72 hours to collect the kit from the health care professional, and then 14 days to send the kit to the state crime laboratories for analysis. After the kit has been processed it will be sent to a law enforcement agency and stored for 50 years.

This bill is the result of thoughtful collaboration from a variety of stakeholders such as DOJ, law enforcement, prosecutors, victim advocates, sexual assault nurse examiners, and the State Crime Laboratory.

I appreciate your consideration of this bill and I would be happy to answer any questions you may have.