Attachment 4

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March 13, 2017

TO: Senator Patti Anne Lodge, Chair
Senator Abby Lee, Vice Chair
Members of the Senate Judiciary and Rules Committee

FROM: Ilse Knecht
Director, Policy and Advocacy
Joyful Heart Foundation

RE: Testimony in Support, H.B. 146

The Joyful Heart Foundation submits this testimony in strong support of House Bill 146, which would increase access to medical forensic exams, strengthen victim notification rights, and establish forensic evidence retention policies.

Joyful Heart Foundation's mission is to transform society's response to sexual assault, domestic violence, and child abuse, support survivors' healing, and end this violence forever. Since 2010, Joyful Heart has made the elimination of the national rape kit backlog our top advocacy priority, and we work directly with survivors, stakeholders, and jurisdictions to achieve this goal. Our staff, consultants, and partners have decades of expertise that allow us to be at the forefront of rape kit reform efforts. This has afforded us the unique opportunity to support the development and implementation of best policies and practices to address the rape kit backlog in jurisdictions nationwide, including; Charlotte, NC; Cleveland, OH; Detroit, MI; Fayetteville, NC; Las Vegas, NV; Memphis, TN; Portland, OR; and Virginia Beach, VA; among others. We have been instrumental in passing state-level rape kit reform legislation in Florida, Georgia, Hawai'i, Iowa, Kentucky, Minnesota, and New York, and are working directly to support rape kit reform legislation in 15 states in the 2017 legislative session.

Given Joyful Heart's legislative record and expertise, we are pleased to submit this testimony in support of H.B. 146.

Idaho began taking steps to end the backlog of untested sexual assault evidence kits last year by enacting legislation to require the state crime lab to conduct an annual audit of untested kits. In December 2016, the Idaho State Police released its first report, finding that statewide 1,116 kits remain untested. Each one of these kits represents a survivor who has consented to the invasive and lengthy evidence collection examination after experiencing a significant and life-changing trauma. Most research and clinical reports regarding survivors and rape evidence exams find that survivors usually consent to this exhausting evidence-gathering procedure because they hope, believe, and expect that the evidence will be tested and that their offenders will be brought to justice. The public expects the same.

They are right to think so. When jurisdictions test every kit, they solve crimes, bring answers and a path to justice for survivors, take criminals off the streets, increase public safety, and exonerate the innocent. We commend the legislature for moving forward with components of comprehensive rape kit reform to eliminate the backlog and for allocating $222,300 in new funding in 2016 to support the Idaho State Police crime lab.

DNA technology is a powerful tool to help law enforcement professionals solve and prevent crime, but first, it must be collected. The option to have a rape kit must be must be made available for every survivor who chooses it. Further, inability to pay should never be a barrier to an examination that could yield probative DNA evidence critical to apprehending the offender. Unfortunately, access to medical forensic exams is limited in many areas across the country. H.B. 146 would increase access to these exams by requiring all entities performing medical forensic exams to offer rape kit exams to all survivors regardless of ability to pay.

Once a rape kit is collected, most survivors are never contacted about the status of their rape kit. Our 2016 research in victim notification found that for survivors who want to know about their case, not having access to such information can severely hamper recovery. Survivors in our study strongly asserted that information about their case "belongs" to them and limiting access to information is "unacceptable and misguided." As one advocate asserted, "everyone should have access to information about their life. If sometimes an advocate or law enforcement picks or chooses who is capable of receiving news, it becomes infantilizing, maternalistic, patronizing. We are assuming we have the power to choose who is fragile and who is resilient, when most people are both." Survivor access to critical information about the status of their kits can help counter the loss of self-determination and control at the core of the sexual assault experience.

H.B. 146 affirms that survivors have a choice about whether, how, and when to receive such information. This legislation would strengthen victim notification rights by requiring law enforcement officials to notify survivors, upon request, when there is a change in the status of their case or when their case is reopened. The law would also require that survivors be notified no later than 60 days before the destruction of their kit, giving survivors the right to petition a court if they chose to preserve their kits for a longer period. Such provisions ensure Idaho's efforts are survivor-focused.

The law should also clearly mandate the length of time for which sexual assault kits must be retained. Without such statutes, discretion exists over when to destroy the kits. This is even more true with states like Idaho that do not have a statute of limitation on rape crimes or other possible guidance for the destruction of evidence. Because of this, local law enforcement agencies across the state lack uniform, standard guidance on when to destroy rape kits. H.B. 146 would establish statewide evidence retention policies, including 55 years from the date of the examination for felony cases. These provisions remove discretion over how long rape kits will be retained and standardize the length of time a kit will be held.

We thank Representative Melissa Wintrow and the esteemed members of the Senate Judiciary and Rules Committee for bringing this bill up for consideration today. H.B. 146 demonstrates Idaho's continued commitment to bringing a path to justice and healing for survivors and to taking dangerous offenders off the streets. We look forward to continue supporting legislative reforms in Idaho.