
CONSENT

Bill No: AB 1927
Author: Boerner Horvath (D), et al.
Amended: 7/2/20 in Senate
Vote: 27

SENATE PUBLIC SAFETY COMMITTEE: 7-0, 7/31/20
AYES: Skinner, Moorlach, Bradford, Jackson, Mitchell, Morrell, Wiener

ASSEMBLY FLOOR: 77-0, 6/10/20 - See last page for vote

SUBJECT: Witness testimony in sexual assault cases: inadmissability in a separate prosecution

SOURCE: Alameda County District Attorney's Office
California District Attorneys Association
San Diego County District Attorney's Office

DIGEST: This bill makes the testimony of a victim or witness in a felony prosecution for specified sex crimes that the victim or witness, at or around the time of crime, unlawfully possessed or used a controlled substance or alcohol inadmissible in a separate prosecution of that victim or witness to prove illegal possession or use of that controlled substance or alcohol.

ANALYSIS:

Existing law:

- 1) Prohibits the admission of evidence that a person was in possession of condoms in a prosecution for a prostitution-related offense. (Evid. Code § 782.1.)
- 2) Prohibits the admission of evidence that a victim of, or a witness to, a serious felony, as defined, assault, domestic violence, extortion, sexual battery, or stalking, each as specified, has engaged in an act of prostitution at or around the time they were the victim of or witness to the crime is inadmissible in a separate

prosecution of that victim or witness to prove criminal liability for the act of prostitution. (Evid. Code, § 1162.)

- 3) Prohibits the arrest of a person for a misdemeanor controlled substances offense or a prostitution offense if the person reports being a victim of, or a witness to, a serious felony, as defined, assault, domestic violence, extortion, sexual battery, or stalking, each as specified, if the person was engaged in such behavior at or around the time they were the victim of, or witness the offense they are reporting. (Evid. Code § 647.3.)
- 4) Establishes a procedure in which a person may be compelled to testify or produce evidence in a felony case if a person refuses to answer a question or produce evidence of any other kind on the ground that he or she may be incriminated and allows the district attorney or any other prosecuting agency to request an order granting use immunity or transactional immunity to the person compelled to give testimony or produce evidence. (Pen. Code § 1324.)
- 5) Establishes a procedure in which a person who refuses to answer a question or produce evidence of any other kind in a misdemeanor case on the ground that he may be incriminated, may agree to testify voluntarily in exchange for immunity from prosecution. (Pen. Code § 1324.1.)

This bill:

- 1) States that the testimony of a victim or witness in a felony prosecution for assault or burglary with the intent to commit specified sex crimes, sexual battery, rape, statutory rape, sodomy, oral copulation, lewd or lascivious acts, sexual penetration, that the victim or witness, at or around the time of the sex crime unlawfully possessed or used a control substance or alcohol is inadmissible in a separate prosecution of that victim or witness to prove illegal possession or use of that controlled substance or alcohol.
- 2) Specifies that evidence that the testifying witness unlawfully possessed or used a controlled substance or alcohol is not excluded from use in the felony prosecution for a violation or attempted violation of specified sex crimes.
- 3) Specifies that evidence that a witness received use immunity for testimony is not excluded in the felony prosecution of a violation or attempted violation of specified sex crimes.

Comments

According to the author:

A report by the White House Task Force to Protect Students from Sexual Assault confirm that liability for illegal consumption of alcohol and drugs can keep victims from reporting sexual assault. Higher education institutions nationwide, including the University of California system, utilize amnesty clauses to encourage college students to report sexual misconduct. These amnesty clauses provide limited immunity to individuals coming forward with a complaint. California should expand this concept to apply to all victims of sexual assault. Every victim deserves to come forward without fear of being found liable for minor violations of underage drinking or drug use. Providing victims with amnesty will help law enforcement prosecute perpetrators of sexual assault and increase overall public safety. AB 1927 will ensure that sexual assault survivors receive the justice they deserve.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 7/31/20)

Alameda County District Attorney's Office (co-source)
California District Attorneys Association (co-source)
San Diego County District Attorney's Office (co-source)
California Coalition Against Sexual Assault
California Legislative Women's Caucus
Center for Community Solutions
Change for Justice
County of San Diego
Crime Victims United of California
End Violence Against Women International
Southern California Public Health Association

OPPOSITION: (Verified 7/31/20)

None received

ASSEMBLY FLOOR: 77-0, 6/10/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau,

Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Kamlager, Quirk

Prepared by: Stella Choe / PUB. S. /

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