

Date of Hearing: April 10, 2024

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

AB 3127 (McKinnor) – As Amended April 1, 2024

Policy Committee: Public Safety

Vote: 5 - 0

Urgency: No

State Mandated Local Program: Yes

Reimbursable: Yes

SUMMARY:

This bill narrows the circumstances in which a health practitioner must make a report to law enforcement because they suspect a patient has suffered physical injury that was caused by assaultive or abusive conduct.

FISCAL EFFECT:

Likely no state costs. Possible minor cost savings to the court and counties to the extent this bill narrows an existing misdemeanor and results in fewer convictions and jail terms.

Unknown, potentially absorbable costs to local public health agencies and clinics to provide brief counseling and offer referrals to patients suspected of experiencing domestic or sexual violence. Costs to the General Fund will depend on whether the duties imposed by this bill constitute a reimbursable state mandate, as determined by the Commission on State Mandates.

COMMENTS:

1) **Purpose.** According to the author:

AB 3127 will ensure survivors can access healthcare services by creating a survivor-centered, trauma-informed approach and limit non-consensual and potentially dangerous referrals to law enforcement. This change will increase access to healthcare and ensure that survivors are provided the agency and information they need to be safe and healthy.

2) **Background.** Existing law requires a health practitioner who treats a person suffering from specified injuries to report that fact immediately to local law enforcement authorities. The duty to report is triggered when a health practitioner knows or reasonably suspects that the patient is suffering from a wound or other physical injury that is the result of assaultive or abusive conduct caused by another person, or when the injury was caused by a firearm. The duty to report extends to many health care professionals including physicians, surgeons, psychiatrists, psychologists, dentists, medical residents, interns, marriage and family therapists, clinical social workers, emergency medical technicians, and paramedics, among others. A health practitioner is required to report assault or abuse regardless of patient consent. Failure to make the required report is a misdemeanor.

This bill narrows the circumstances in which a health practitioner has a duty to report known or suspected assaultive or abusive conduct. Under the bill, a health practitioner must make a report to law enforcement only if the patient's injury was caused by a firearm, was life threatening, or resulted in death. The bill defines "life threatening" as an injury likely to result in death without immediate medical or surgical intervention, including injuries from a knife, gun, or strangulation. In practice, this means a health practitioner who suspects a lesser injury was caused by domestic violence will no longer be required to report the injury to law enforcement or face a potential criminal charge. A health practitioner may still make a report to law enforcement based on lesser injuries at the request of a patient.

Whenever a health practitioner knows or reasonably suspects a patient is experiencing domestic or sexual violence, the bill requires the practitioner, to the degree that it is medically possible for the individual patient, to provide brief counseling, education, or other support, and offer a "warm handoff" or referral to local and national domestic violence or sexual violence advocacy services. This requirement is satisfied when a member of the health care team provides brief counseling and simply offers a referral to advocacy services. The bill does not eliminate a health practitioner's duty to report known or suspected child abuse and neglect, or their duty to report known or suspected abuse of an elder or a dependent adult.

- 3) **Prior Legislation.** AB 1028 (McKinnor), of this legislative session, would have eliminated the duty of a health practitioner to report assaultive or abusive conduct to law enforcement. AB 1028 was held in the Senate Appropriations Committee.

AB 2790 (Wicks), of the 2021-2022 Legislative Session, would have limited the duty of a health practitioner to report assaultive or abusive conduct to law enforcement to injuries that are self-inflicted or caused by a firearm. AB 2790 was held in the Senate Appropriations Committee.

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