
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2023 - 2024 Regular Session

SB 464 (Wahab) - Criminal law: rights of victims and witnesses of crimes

Version: March 22, 2023
Urgency: No
Hearing Date: May 8, 2023

Policy Vote: PUB. S. 5 - 0
Mandate: Yes
Consultant: Matthew Fleming

Bill Summary: SB 464 would give sex assault victims additional rights during a medical evidentiary examination and interview, require law enforcement agencies to report specified data to the Department of Justice (DOJ) regarding sexual assault kits, and shorten the time frame in which victims and witnesses get written notice regarding the disposition of a case.

Fiscal Impact: Unknown, likely reimbursable costs to local law enforcement in order to audit untested sexual assault kits and report specified information to the DOJ (local funds, General Fund). Unknown, potentially reimbursable costs to district attorneys offices that will be required to inform all victims of and witnesses to sexual assault offenses of the disposition of a case within 72 hours (local funds, General Fund). General Fund costs will depend on whether this bill constitutes a reimbursable state mandate as determined by the Commission on State Mandates. Likely minor and absorbable costs to local law enforcement agencies and district attorney offices in order to provide written notice to a victim of sexual assault of their right to have a licensed attorney present during the interview. Notification and invocation of this right may result in delays of interviews that would otherwise happen immediately.

Background: Existing law allows a victim of a sex assault to have a victim advocate and a person of their choosing in any medical evidentiary or physical exam, any interviews with law enforcement, and any interviews with the suspect's defense attorney. This bill would also allow a person to have a licensed attorney of their choosing present.

Existing law required any facility that any facility that received, stored or preserved sexual assault evidence kits to conduct an audit of all untested kits and submit information on the following to the DOJ: the total number of kits and for each kit specified information regarding the untested kits by July 2019. The DOJ submitted a report in July of 2020. There were a number of reasons that kits were not tested: the case could not be prosecuted or investigated for various reasons; testing was not necessary for the identification of a suspect (the assailant was known to the victim); the investigation was ongoing; the kit was not expected to yield any DNA; a courtesy report was taken by one agency on behalf of another; it was determined there was not crime or sexual assault. This bill requires a similar information regarding untested kits to be submitted to the DOJ by any of the organization who take such take or preserve sexual assault kits no later than July 1, 2026 with DOJ reporting to the legislature by July 1, 2027.

Existing law requires, upon the request of the victim or witness of a crime, the prosecutor to notify the victim or witness of a crime of the final disposition of the case by letter within 60 days. This bill changes that time frame to 72 hours.

Proposed Law:

- Allows a person to have a licensed attorney representing the victim present any interview by law enforcement authorities, district attorneys or defense attorneys.
- Provides that prior to the commencement of the initial interview by law enforcement authorities or the district attorney pertaining to any criminal action arising out of a sexual assault, or any interview by the defense attorney or investigators or agents employed by the defense attorney, the victim shall be notified in writing by the attending law enforcement authority or district attorney that they have the right to have a licensed attorney present.
- Provides that each law enforcement agency, medical facility, crime laboratory, and other facility that receives, maintains, stores, or preserves sexual assault kits shall submit a report with similar information to the DOJ by July 1, 2026.
- Requires that, upon request of a victim or a witness of a crime, the prosecuting attorney shall, within 72 hours of the final disposition of the case, inform the victim or witness by letter of such final disposition.

Related Legislation: SB 376 (Rubio) would provide that a victim of human trafficking or abuse has the right to have a human trafficking advocate and a supporter person of the victim's choosing present at an interview by a law enforcement authority. SB 376 is pending on the Senate Floor.

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