
THIRD READING

Bill No: SB 464
Author: Wahab (D), et al.
Amended: 3/22/23
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 4/25/23

AYES: Wahab, Ochoa Bogh, Bradford, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23

AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SUBJECT: Criminal law: rights of victims and witnesses of crimes

SOURCE: RISE, Inc.

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

ANALYSIS:

Existing law:

- 1) Provides that a victim of sexual assault has the right to have victim advocate, a support person of the victim's choosing, and a licensed attorney representing the victim present at any interview by law enforcement authorities, district attorneys or defense attorneys. A victim retains this right regardless of whether they have waived the right in a previous medical evidentiary exam. (Penal Code § 679.04 (a))
- 2) 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, the victim shall be notified in writing by the

attending law enforcement authority or district attorney that they have the right to have victim advocate and a support person of their choosing present at the interview or contact, about other rights of the victim pursuant to law, and the victim has the right to request to have a person of the same gender or opposite gender as the victim present in the room during any interview with a law enforcement official or district attorney, unless no such person is reasonably available. (Penal Code § 679.04 (b)(1))

- 3) Provides that at the time the victim is advised of their rights, the attending law enforcement authority or district attorney shall advise the victim of the right to have victim advocate and a support person at any interview by the defense attorney or investigators or agents employed by the defense attorney. (Penal Code § 679.04 (b)(2))
- 4) Requires all law enforcement agencies, medical facilities, crime laboratories, and any other facilities that receive, maintain, store, or preserve sexual assault evidence kits to conduct an audit of all untested sexual assault evidence kits in their possession and required these entities to report certain data to the DOJ by not later than July 1, 2019, and the DOJ was in their possession and the DOJ was to submit a report to the legislature. (Penal Code § 680.4)
- 5) Requires that, upon request of a victim or a witness of a crime, the prosecuting attorney shall, within 60 days of the final disposition of the case, inform the victim or witness by letter of such final disposition. (Penal Code § 11116.10)

This bill:

- 1) Allows a person to have a licensed attorney representing the victim present at exams and interviews.
- 2) Provides that the victim shall be advised of their right to have victim advocates, a support person, and a licensed attorney representing the victim at any interview by the defense attorney or investigators.
- 3) 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.
- 4) Requires the notice by letter to be within 72 hours of the final disposition.

Comments

According to the author:

SB 464 requires law enforcement agencies to report to the California Department of Justice the number of sexual assault evidence kits they collect, and the number of untested kits in their possession. This bill also provides survivors of sexual assault with the necessary legal protections and ensures case disposition is shared in a timely manner.

SB 464 is a critical step towards ensuring that every sexual assault evidence kit is tested, that survivors are informed about the status of their kit, and that perpetrators of sexual assault are brought to justice. By allowing Californians to understand the status of all sexual assault evidence kits in the state, SB 464 will help to identify any systemic issues that may prevent timely testing of these kits, and provide transparency and accountability for survivors, law enforcement, and the public.

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

According to the Senate Appropriations Committee, 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.

SUPPORT: (Verified 5/18/23)

RISE, Inc. (source)
California National Organization for Women
Joyful Heart Foundation

OPPOSITION: (Verified 5/18/23)

None received

ARGUMENTS IN SUPPORT: RISE, Inc., the sponsor of this bill, states, “Many survivors of sexual assault lack the legal expertise necessary to effectively advocate for themselves and to ensure that evidence related to their case is properly collected. Further, when cases drag on for long periods of time, survivors may be retraumatized by the legal process. Moreover, in 2021, the Department of Justice released an audit of untested rape kits. Of the 693 law enforcement agencies in the state, only 149 reported data for the audit. This lack of participation raises concerns about law enforcement transparency and their ability to properly protect evidence.”

Prepared by: Mary Kennedy / PUB. S. /
5/20/23 12:51:35

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