

Date of Hearing: July 12, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

SB 464 (Wahab) – As Amended June 29, 2023

Policy Committee: Public Safety

Vote: 8 - 0

Urgency: No

State Mandated Local Program: Yes

Reimbursable: Yes

SUMMARY:

This bill requires law enforcement agencies to audit all untested sexual assault evidence (SAE) kits in their possession and requires the Department of Justice (DOJ) to compile information from those audits into a report to the Legislature. The bill also makes shorter the time period in which a prosecutor must inform a victim or witness of a trial court's disposition of a case.

Specifically, this bill:

- 1) Requires each applicable law enforcement agency, medical facility, crime laboratory, and any other facility to conduct an audit of all untested SAE kits in its possession and submit the audit information to DOJ by July 1, 2026.
- 2) Requires DOJ to submit a report to the Legislature by July 1, 2027, that summarizes the information from the law enforcement agencies' audits.
- 3) Changes the time period within which a prosecuting attorney must inform a victim or witness, if they have requested to be informed, of the disposition of a case at the trial court level from 60 days to 30 days.

FISCAL EFFECT:

- 1) Costs (local funds, General Fund) of an unknown amount to cities and counties to conduct the required audit of untested SAE kits and report data to DOJ. This bill requires each law enforcement agency, medical facility, crime laboratory, and other facility that possesses SAE kits to audit its untested kits and report related information to DOJ. In the aggregate statewide, these costs will be significant, likely in the hundreds of thousands to low millions of dollars. General Fund costs will depend on whether the duties imposed by this bill constitute a reimbursable state mandate, as determined by the Commission on State Mandates.
- 2) Costs to DOJ (General Fund) to complete the required report. DOJ reports workload costs of \$87,000 in fiscal year (FY) 2023-24, \$147,000 in FY 2024-26, and \$101,000 in FY 2026-27 to provide outreach and assistance to law enforcement agencies, labs, and medical facilities; to review, compile, and correct the agencies' audit reports; and to analyze the reported data and prepare the report to the Legislature. According to DOJ, the DNA Identification Fund's revenues have declined significantly and cannot fund the duties required by this bill, so DOJ would need a General Fund appropriation to complete this work.

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

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.

2) **Background.** An SAE kit is used to collect evidence from a sexual assault victim's body after an assault. After a hospital or clinic collects potential evidence during an SAE examination, the kit is typically transferred to the law enforcement agency responsible for investigating the assault. If DNA from the perpetrator is collected using the kit, it can be tested and used to help identify the perpetrator. In California, there is a backlog of untested SAE kits. There are many reasons why an SAE kit may not be tested – for example, a law enforcement agency may not have sufficient resources to complete testing, or the victim may already know the identity of the perpetrator, or the perpetrator may plead guilty to the crime, rendering further investigation moot.

In 2018, the Legislature passed AB 3118 (Chiu) Chapter 950, Statutes of 2018, which required each law enforcement agency and crime laboratory to conduct an audit and provide DOJ certain information about any untested SAE kits in its possession. The bill required DOJ to compile the audit information into a report to the Legislature. This statewide audit was supported by a \$1 million appropriation in the 2018-2019 budget, which DOJ distributed as grants to 23 law enforcement agencies to fund their participation in the audit. In 2020, DOJ issued its report to the Legislature. According to the report, DOJ received information from 149 law enforcement agencies and crime laboratories, which identified approximately 14,000 untested SAE kits. The report, which can be accessed on DOJ's website, includes information about why some kits were not tested, victims' decisions about whether to pursue prosecution, and the number of untested SAE kits reported by individual law enforcement agencies.

This bill requires another audit of untested SAE kits by each law enforcement agency, crime laboratory, and any other facility in possession of SAE kits, and requires DOJ to compile information from these audits into a report to the Legislature by July 1, 2027.

This bill also reduces, from 60 to 30 days, the time period in which a prosecutor must notify a victim or witness about the trial court's disposition of a criminal case. However, as noted in the Assembly Committee on Public Safety's analysis of this bill, a defendant may file a notice of their intent to appeal up to 60 days after the trial court's judgment is entered. In practice, this means that a prosecutor may be required to notify a victim of the trial court's disposition before the parties know whether the defendant intends to appeal – meaning the victim may receive incomplete or potentially misleading information about whether the outcome of the case is actually final.