

Date of Hearing: July 15, 2025

Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

SB 733 (Wahab) – As Amended June 17, 2025

SUMMARY: Authorizes a sexual assault survivor who is 18 years of age or older and who is undecided whether to report a sexual assault to law enforcement at the time of a sexual assault examination to request that all medical evidence collected from them not be tested until the time they decide to make a report to law enforcement.

EXISTING LAW:

- 1) Requires a law enforcement agency (LEA) in whose jurisdiction a specified sex offense occurred to do one of the following for any sexual assault forensic evidence received by the LEA on or after January 1, 2016:
 - a) Submit sexual assault forensic evidence to the crime lab within 20 days after it is booked into evidence; or
 - b) Ensure that a rapid turnaround DNA program is in place to submit forensic evidence collected from the victim of a sexual assault directly from the medical facility where the victim is examined to the crime lab within five days after the evidence is obtained from the victim (Pen. Code, § 680, subd. (c)(1).)
- 2) Provides that the crime lab shall do one of the following for any sexual assault forensic evidence received by the crime lab on or after January 1, 2016:
 - a) Process sexual assault forensic evidence, create DNA profiles when able, and upload qualifying DNA profiles into CODIS as soon as practically possible, but no later than 120 days after initially receiving the evidence; or
 - b) Transmit the sexual assault forensic evidence to another crime lab as soon as practically possible, but no later than 30 days after initially receiving the evidence, for processing of the evidence for the presence of DNA. If a DNA profile is created, the transmitting crime lab shall upload the profile into CODIS as soon as practically possible, but no longer than 30 days after being notified about the presence of DNA. (Pen. Code, § 680, subd. (c)(2).)
- 3) Requires the LEA investigating the crime to inform the victim of the status of the DNA testing of the rape kit evidence or other crime scene evidence from the victim's case upon the request of said sexual assault victim. The law enforcement agency may, at its discretion, require that the victim's request be in writing. The LEA shall respond to the victim's request with either an oral or written communication, or by email, if an email address is available. The LEA is not required to communicate with the victim or the victim's designee regarding the status of DNA testing absent a specific request from the victim or the victim's designee. (Pen. Code, § 680 subd. (d)(1).)

- 4) Provides that, subject to the commitment of sufficient resources to respond to requests for information, sexual assault victims have the following rights:
 - a) The right to be informed whether or not a DNA profile of the assailant was obtained from the testing of the rape kit evidence or other crime scene evidence from their case;
 - b) The right to be informed whether or not the DNA profile of the assailant developed from the rape kit evidence or other crime scene evidence has been entered into the Department of Justice Data Bank of case evidence; and,
 - c) The right to be informed whether or not there is a match between the DNA profile of the assailant developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Department of Justice Convicted Offender DNA Data Base, provided that disclosure would not impede or compromise an ongoing investigation. (Pen. Code, § 680, subd. (d)(2).)
- 5) Requires that, if an LEA does not analyze DNA evidence within six months prior to the established time limits, a victim of a sexual assault offense be informed, either orally or in writing, of that fact by the LEA. (Pen. Code, § 680, subd. (e).)
- 6) Provides that if an LEA intends to destroy or dispose of rape kit evidence or other crime scene evidence from an unsolved sexual assault case, the victim shall be given written notification by the LEA of that intention. (Pen. Code, § 680, subd. (f)(1).)
- 7) Specifies that an LEA shall not destroy or dispose of rape kit evidence or other crime scene evidence from an unsolved sexual assault case before at least 20 years, or if the victim was under 18 years of age at the time of the alleged offense, before the victim's 40th birthday. (Pen. Code, § 680, subd. (f)(2).)
- 8) Specifies that written notification to the victim about the destruction of the evidence in an unsolved sexual assault case shall be made at least 60 days prior to its destruction or disposal. (Pen. Code, § 680, subd. (g).)
- 9) Provides that a sexual assault victim may designate a sexual assault victim advocate, or other support person of the victim's choosing, to act as a recipient of the above information. (Pen. Code, § 680, subd. (h).)
- 10) Requires that the DOJ, on or before July 1, 2022, and in consultation with LEAs and crime victims groups, establish a process that allows a survivor of sexual assault to track and receive updates privately, securely, and electronically regarding the status, location, and information regarding their sexual assault evidence kit in the department's SAFE-T database. (Pen. Code, § 680.1.)
- 11) Requires that upon the initial interaction with a sexual assault victim, an LEA or medical provider provide the victim with a card to be developed by every local law enforcement agency, in consultation with sexual assault experts that explains all of the rights of sexual assault victims. This card shall include, but is not limited to, all of the following:

- a) A clear statement that a sexual assault victim is not required to participate in the criminal justice system or to receive a medical evidentiary or physical examination in order to retain their rights under the law;
 - b) Telephone or Internet Web site contact information for a nearby rape crisis center and sexual assault counselor;
 - c) Information about the types of law enforcement protection available to the sexual assault victim, including a temporary protection order, and the process to obtain that protection;
 - d) Instructions for requesting the results of the analysis of the victim's sexual assault forensic evidence;
 - e) Information about state and federal compensation funds for medical and other costs associated with the sexual assault and information on any municipal, state, or federal right to restitution for sexual assault victims if a criminal trial occurs;
 - f) A clear statement that the victim has the right to have a sexual assault counselor and at least one other support person of the victim's choosing present at any initial medical evidentiary examination, physical examination, or investigative interview arising out of a sexual assault, and that a sexual assault counselor can be contacted 24 hours a day;
 - g) Information about the rate of potential evidence degradation;
 - h) A clear statement that if sexual assault forensic evidence will be tested, it should be transported to the crime laboratory and analyzed within specified time limits; and,
 - i) A clear statement that the law enforcement agency or crime laboratory will retain the sexual assault forensic evidence for at least 20 years, or if the victim was under 18 years of age at the time of the alleged offense, at least until the victim's 40th birthday. (Pen. Code, § 680.2, subd. (a).)
- 12) Requires a law enforcement official, upon written request by a sexual assault victim, to furnish a free copy of the initial crime report related to the sexual assault, regardless of whether the report has been closed by the LEA, to the victim. An LEA may redact personal, identifying information in the copy furnished to the victim. (Pen. Code, § 680.2, subd. (b).)
- 13) Requires an LEA to provide sufficient copies of the card to each provider in its jurisdiction of medical evidentiary examinations or physical examinations arising from sexual assault. (Pen. Code, § 680.2, subd. (d).)

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) **Author's Statement:** According to the author, "Senate Bill (SB) 464 (Chapter 715, Statutes of 2023) took a vital step towards empowering survivors by requiring sexual assault kits (SAKs) to be tested, ensuring legal protections, and keeping survivors informed about their cases. Despite advancements that put victims first, vague legal language led to confusion

among first responders, resulting in inconsistent practices across California that left many survivors feeling unheard and powerless. SB 733 directly addresses this gap by cleaning up ambiguities in SB 464. SB 733 establishes clarity allowing survivors 18 years or older and who are undecided about making a report to law enforcement to request that their SAKs remain untested until they make that choice. SB 733 reaffirms that survivors have the right to decide how and when to engage with the justice system. In establishing consistency, SB 733 safeguards the self-determination of victims, creates uniformity in outcomes, and ensures California upholds the autonomy that every survivor deserves.”

- 2) **Sexual Assault Victim’s Bill of Rights:** California established the Sexual Assault Victims' Bill of Rights in 2003. (AB 898 (Chu), Chapter 537, Statutes of 2003.) In passing that law, the Legislature found and declared that “[l]aw enforcement agencies have an obligation to victims of sexual assaults in the proper handling, retention and timely DNA testing of rape kit evidence or other crime scene evidence and to be responsive to victims concerning the developments of forensic testing and the investigation of their cases.”

Upon the request of the survivor, law enforcement agencies investigating the sexual assault may inform the survivor of the status of the DNA testing. Specifically, the California DNA Bill of Rights provides that subject to sufficient resources to respond to requests, survivors have a right to be informed whether or not the assailant's DNA profile was developed from the rape kit evidence, whether or not that profile was uploaded to the DNA database and whether or not a hit resulted from the upload.

The Sexual Assault Victims' Bill of Rights was amended by AB 1517 (Skinner), Chapter 874, and Statutes of 2014. Those amendments encouraged law enforcement and crime labs to handle and process sexual assault forensic evidence within specific time frame. It was amended again by AB 1312 (Gonzalez) Chapter 692, Statutes of 2017 amended the bill of rights to provide that each victim should be given a card outlining their rights.

Sexual assault victims are entitled to, during their first contact with law enforcement, a card that outlines their rights and the laws specifies what that card shall include. Existing law provides that the card shall also include that a statement that a victim cannot be found in contempt of court for refusing to testify in a sexual assault case.

In 2019, SB 22 (Leyva), Chapter 588, Statutes of 2019 required, for all tests collected law enforcement agencies to either submit sexual assault forensic evidence to a crime lab or ensure a rapid turnaround DNA program is in place. SB 22 also required crime labs to either process evidence for DNA profiles and upload them into the DNA database or transmit the evidence to another crime lab for processing and uploading.

In 2021, SB 215 (Leyva), Chapter 634, Statutes of 2021 granted the right of a sexual assault victim to access DOJ’s SAFE-T database for the information involving their case. In November 2022, California Attorney General Rob Bonta announced the launch of a new online portal to allow survivors of sexual assault to track the status of their sexual assault evidence kits and the hiring of the state’s first-ever sexual assault evidence outreach coordinator, Dr. Sarai Crain, who will work directly with law enforcement, medical facilities,

and other partner organizations to support local efforts to track and process sexual assault evidence.¹

As a result of the new portal, survivors are now able to learn in real-time whether their sexual assault evidence kit has been received by a law enforcement agency, is in transit to a lab, has been received by a lab, is undergoing DNA analysis, or has had DNA analysis completed. The portal also provides information on resources available to survivors. Individuals are able to access their own kit information online by entering their kit number and the name of the investigating agency. In California, kit information is typically provided to survivors upon completion of a forensic sexual assault medical exam.

Finally, in 2023, SB 464 (Wahab), Chapter , no later than July 1, 2026, each LEA and public crime laboratory, as specified, to create a record in the SAFE-T database for every victim sexual assault kit in their possession that has not had DNA testing completed as of July 1, 2026.

This bill states any person over 18 years of age may request that their sexual assault kit not be tested until the time they decide to make a report to law enforcement.

3) **Argument in Support:** None submitted.

4) **Argument in Opposition:** None submitted.

5) **Prior Legislation:**

- a) AB 41 (Chiu), Chapter 694, Statutes of 2017, requires law enforcement agencies to report information regarding rape kit evidence, within 120 days of the collection of the kit, to the Department of Justice through the SAFE-T database and requires that information include, among other things, whether biological evidence samples were submitted to a DNA laboratory for analysis and if a probative DNA profile was generated.
- b) SB 464 (Wahab), Chapter 715, Statutes of 2023, requires, among other things, all law enforcement agencies, medical facilities, public 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.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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¹ <https://www.forensicmag.com/591712-California-Launches-New-Online-Portal-for-Rape-Victims/>