

Date of Hearing: September 10, 2025

**ASSEMBLY COMMITTEE ON APPROPRIATIONS**

Buffy Wicks, Chair

SB 733 (Wahab) – As Amended September 9, 2025

Policy Committee: Public Safety

Vote: 9 - 0

Urgency: No

State Mandated Local Program: Yes

Reimbursable: Yes

**SUMMARY:**

This bill imposes requirements for the handling of a sexual assault evidence (SAE) kit when a sexual assault survivor requests that medical evidence collected from the survivor not be tested.

Specifically, among other provisions, this bill:

- 1) Authorizes a sexual assault survivor to request that all medical evidence collected from the survivor in an SAE kit during a medical examination not be tested if the survivor both (a) is 18 years of age or older and (b) is undecided whether to report to law enforcement at the time of the examination.
- 2) Requires an investigating agency in possession of an SAE kit subject to a request described in item 1, above, to follow existing requirements regarding retention of SAE kits, notice to survivors, and destruction of SAE kits.
- 3) If, at the time of the examination, a survivor requests their SAE kit not be tested (as described in item 1, above), prohibits a medical facility from submitting the kit to a crime laboratory and requires the investigating agency to retain the kit until the sexual assault survivor requests testing.
- 4) If, after an examination, a survivor requests their SAE kit not be tested (as described in item 1, above), applies the following:
  - a) If the kit has not been submitted to a crime laboratory, requires the investigating agency to retain the kit.
  - b) If the kit has been submitted to a laboratory but DNA testing has not yet begun, requires the investigating agency to notify the laboratory of the request and requires the investigating agency to retain the untested kit.
- 5) Permits a sexual assault survivor who requests an SAE kit not be tested (as described in item 1, above) to later request that the kit be tested, regardless of whether the survivor makes a report to law enforcement.
- 6) Specifies the transfer of a sexual assault kit by a medical facility to a crime laboratory representative solely for secure transport, intake, or evidence triage on behalf of an investigating agency does not constitute submission of the kit for testing.

- 7) Requires a transfer described in item 5, above, be documented in the chain of custody record or other state-approved tracking system, and specifies such transfers shall not affect statutory retention timelines or survivor notification requirements.

#### **FISCAL EFFECT:**

- 1) Costs (local funds, General Fund) to investigating agencies to make notifications, complete chain of custody documentation, transfer kits, retain untested kits, and test kits upon request of survivors who initially declined testing. The incidence of cases contemplated by this bill – in which an adult sexual assault survivor requests a kit not be tested – is unknown. For each SAE kit affected by this bill, notification, documentation, and transfer costs to each individual agency may not be high, but in the aggregate statewide, these costs may be significant. According to the Legislative Analyst’s Office, the average cost of testing for an SAE kit is approximately \$800. If this bill results in testing of 50 additional kits each year for which survivors initially declined testing, associated costs would be around \$40,000 annually. Under existing law, when a survivor declines to have an SAE kit tested, the investigating agency is not obligated to retain the kit. This bill instead requires an investigating agency to retain such a kit until the survivor requests the kit be tested, or, if the survivor does not request testing, for at least 20 years. As a result, investigating agencies will incur costs of an unknown but potentially significant amount to retain untested SAE kits.

The Commission on State Mandates has found that costs for some local agency duties related to transfer and testing of SAE kits are eligible for reimbursement from the General Fund. If the commission makes a similar finding about this bill, the local costs for complying with the bill will be eligible for General Fund reimbursement. Costs may be offset to some extent by state and federal grant funds for handling SAE kits.

- 2) Possible costs (General Fund) to the Department of Justice (DOJ), if DOJ must update its SAFE-T database, which tracks the collection and processing status of SAE kits in California. At the time this analysis was prepared, DOJ did not anticipate database updates resulting from this bill. If DOJ later determines such an update is needed, costs may be in the low hundreds of thousands of dollars one-time, based on DOJ’s estimates for prior updates.

#### **COMMENTS:**

An SAE kit is used to collect evidence from a sexual assault survivor’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. DOJ reported that in 2023, 6,689 SAE kits in California had DNA analysis completed, 280 kits were either in transit or pending analysis by a laboratory at the time of reporting, and 141 kits were received by a law enforcement agency but had not been submitted for testing for a variety of reasons.

Existing law – the Sexual Assault Victims’ DNA Bill of Rights – establishes requirements for the time periods in which law enforcement agencies and medical facilities must perform DNA testing on SAE kits collected from sexual assault survivors. The law also allows a sexual assault survivor to request that an SAE kit collected from them not be tested. This bill specifies which survivors may make such a request and fleshes out the steps an investigating agency and medical facility must take if a survivor makes such a request, and allows a survivor who declines testing

of their SAE kit to later request the kit be tested. Among other provisions, the bill authorizes a survivor who is both 18 years old and who is “undecided about whether to report to law enforcement at the time of an examination” to request an SAE kit not be tested, though the bill does not specify who must determine whether an individual survivor meets these qualifications, nor does the bill specify how this determination must be made. Additionally, the bill requires an investigating agency to retain an SAE kit for which a survivor has declined testing until the survivor decides to have it tested, or, if the survivor does not request testing, requires the investigating agency to retain the kit for at least 20 years.

According to the author’s office, there is no consistent statewide practice for handling an SAE kit for which a survivor has declined testing. The author’s office reports this bill is intended to codify the existing practices of some counties and some medical facilities and is not intended to require additional moneys or state appropriations. However, by mandating the notice, documentation, and transfer practices summarized above and imposing a lengthy retention period, the bill may have significant General Fund impacts.

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