
UNFINISHED BUSINESS

Bill No: SB 733
Author: Wahab (D), et al.
Amended: 9/9/25
Vote: 21

PRIOR SENATE VOTES NOT RELEVANT

ASSEMBLY FLOOR: 67-0, 9/13/25 – Roll call vote not available

SUBJECT: Sexual assault forensic evidence: testing

SOURCE: CalSafe

DIGEST: This bill authorizes a sexual assault victim who is 18 years of age or older to request that all medical evidence collected from them not be tested; the victim may later request that their kit be tested, regardless of whether they also decide to make a report to law enforcement.

Assembly Amendments delete the Senate version of this bill and replace it with provisions that authorize a sexual assault victim who is 18 years of age or older to request that all medical evidence collected from them not be tested and impose requirements for the handling of the sexual assault evidence kit when a request not to test is made.

ANALYSIS:

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 the Combined DNA Index System (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 the 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 LEA 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 a sexual assault victim has the right to access the Department of Justice's Sexual Assault Forensic Evidence Tracking (SAFE-T) database portal, as specified, for information involving their own forensic kit and the status of the kit. (Pen. Code, § 680, subd. (d)(2).)
- 5) Provides that a sexual assault victim has the right to be informed of the following:
- a) 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) 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 or the federal Department of Justice or Federal Bureau of Investigations CODIS database of case evidence; and,
 - c) Whether or not there is a confirmed 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)(3).)
- 6) Requires that, if a 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).)
 - 7) 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).)
 - 8) 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).)
 - 9) 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).)
 - 10) 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).)
 - 11) Requires that the Department of Justice, 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.)
 - 12) Requires that upon the initial interaction with a sexual assault victim, an LEA or medical provider provide the victim with a card 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) A clear statement that, as specified, a court may not imprison or otherwise confine or place in custody a victim of sexual assault or domestic violence for contempt if the contempt consists of refusing to testify concerning the crime;
- c) Telephone or Internet Web site contact information for a nearby rape crisis center and sexual assault counselor;
- d) 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;
- e) Instructions for requesting the results of the analysis of the victim's sexual assault forensic evidence;
- f) 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;
- g) 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;
- h) Information about the rate of potential evidence degradation;
- i) 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,
- j) A clear statement that the LEA 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).)

- 13) 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).)
- 14) Requires a 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).)

This bill:

- 1) Authorizes a sexual assault victim who is 18 years of age or older to request that all medical evidence collected from them not be tested.
- 2) Requires an investigating agency in possession of a kit subject to a request not to test, to following existing requirements regarding retention of the kits, notice to survivors, and destruction of kits.
- 3) Provides that if this request is made at the time of the examination, the medical facility shall not submit the kit to a crime laboratory, and the investigating agency shall retain the kit until the sexual assault victim requests testing.
- 4) Provides that if this request is made after the examination, the request may be directed to the investigating agency. If the kit has not yet been submitted to a crime laboratory at the time the request is received, the kit shall be retained by the investigating agency. If the kit has already been submitted to a laboratory but DNA testing has not yet begun, the investigating agency shall notify the laboratory of the request and the untested kit shall be returned to the investigating agency to retain.
- 5) Specifies that a sexual assault victim who has requested that their kit not be tested may later request that their kit be tested, regardless of whether they also decide to make a report to law enforcement.
- 6) States that 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 the investigating agency shall not constitute submission for testing. All such transfers shall be documented in the chain of custody record or other state-approved tracking system, and shall not affect statutory retention timelines or victim notification requirements.

Background

California established the Sexual Assault Victims' DNA 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.” (Pen. Code, § 680, subd. (b)(4).)

Upon the request of the survivor, law enforcement agencies investigating the sexual assault must inform the survivor of the status of the DNA testing. Specifically, the California DNA Bill of Rights provides that survivors have a right to be informed whether or not the assailant's DNA profile was developed from the rape kit or other crime scene 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), 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 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), provided sexual assault survivors the ability to privately, securely, and electronically track their own sexual assault evidence kit through the Department of Justice’s SAFE-T database. 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, to work directly with law enforcement, medical facilities, and other partner organizations to support local efforts to track and process sexual assault evidence. This was intended to clear the backlog of sexual assault evidence at the local level, ensure timely processing of the evidence, and increase transparency and survivors' access to information.

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.

(<https://www.forensimag.com/591712-California-Launches-New-Online-Portal-for-Rape-Victims/> [as of August 18, 2025].)

Finally, in 2023, SB 464 (Wahab, Chapter 715) required, 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. SB 464 also authorized a victim to request that a sexual assault kit collected from them not be tested, exempting that kit from testing.

This bill clarifies that any person over 18 years of age may request that their sexual assault kit not be tested. A person who has requested that their kit not be tested may later request that their kit be tested, regardless of whether they also decide to make a report to law enforcement.

Current law authorizes a minor who is 12 years of age or older and alleged to have been raped to "consent to, or withhold consent for, a medical evidentiary examination without the consent of a parent or guardian." (Pen. Code, § 13823.11; Fam. Code, §§ 6927.) The bill, however, does not allow a minor who is 12 years of age or older to also request that their sexual assault kit not be tested until the time they decide to make a report to law enforcement. According to information

provided by the author's office, setting the age threshold below 18 years of age would create logistical and legal complications for mandated reporters and law enforcement, ultimately delaying the pursuit of justice. While minors 12 years of age or older have the legal right to consent to or decline a medical examination and evidence collection without parental consent, mandated reporters (as defined under Pen. Code. §11165.7) are still legally obligated to report any situation where they "know or reasonably suspect" that a child has been the victim of abuse or neglect and "may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident." (Pen. Code, § 11166.) Informing minors that they can opt out of having their sexual assault examination evidence tested, when the provider is mandated to report the assault, could lead to confusion for the survivor and lack of access to evidence for the prosecution. Minor victims could also be coerced to request no testing when the assault is perpetrated by a family member.

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

According to the Assembly Appropriations Committee:

- 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.

SUPPORT: (Verified 9/12/25)

CalSafe (source)
Ruby's Place
Safe Alternatives to Violent Environments

OPPOSITION: (Verified 9/12/25)

None received

ARGUMENTS IN SUPPORT: According to Safe Alternatives to Violent Environments:

As an organization committed to supporting survivors of violence, we know that trauma recovery is not linear. Survivors need time and space to make deeply personal decisions about reporting to law enforcement, without losing access to critical forensic evidence. By refining SB 464 (Chapter 715, Statutes of 2023), SB 733 closes gaps in implementation, reduces confusion for forensic nurses and investigators, and ensures that survivors' autonomy is respected. We support this important measure, which balances public safety with survivor autonomy and ensures full realization of the protections promised under the Sexual Assault Survivor's Bill of Rights.

Prepared by: Cheryl Anderson / PUB. S. /
9/13/25 1:59:40

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