
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: AB 1475 **Hearing Date:** June 16, 2015
Author: Cooper
Version: March 26, 2015
Urgency: No **Fiscal:** No
Consultant: JM

Subject: *Sexual Assault Response Team*

HISTORY

Source: California Clinical Forensic Medical Training Center

Prior Legislation: AB 406 (Torres) – Ch. 406, Stats. of 2013
AB 2229 (Brownley) – Chapter 464, Stats. of 2010
AB 1441 (Garcia) – 2003-04, held in Assembly Appropriations
AB 1858 (Hollingsworth) – Ch. 1090, Stats. of 2002

Support: California District Attorneys Association; California Association of Crime Laboratory Directors; Association of Deputy District Attorneys; Association for Los Angeles Deputy Sheriffs; California Association of Code Enforcement Officers; California Coalition Against Sexual Assault; California College and University Police Chiefs; California Narcotics Officers Association; California Police Chiefs Association; California Sexual Assault Investigators Association; California State Sheriffs' Association; Los Angeles Police Protective League; Riverside Sheriffs Association

Opposition: None known

Assembly Floor Vote: 77 - 0

PURPOSE

The purpose of this bill is to 1) authorize each county to create a multi-agency Sexual Assault Response Team (SART) with the function or objective of coordinating responses to sexual crimes across various agencies and entities, including law enforcement, prosecution, victim services and public health; and 2) require SART programs to investigate and employ best practices, assess trends and evaluate the effectiveness of related practices and protocols, as specified.

Existing law:

Authorizes counties to establish and implement a Sexual Assault Felony Enforcement (SAFE) Team programs. (Pen. Code, § 13887.)

Provides that the mission of the SAFE Team program shall be to reduce violent sexual assault offenses in the county through proactive surveillance and arrest of habitual sex offenders, and by

the strict enforcement of sex offender registration requirements. (Pen. Code §13887.1, subd. (a).)

States that the proactive surveillance and arrest authorized for SAFE Team programs shall be conducted within the limits of statutory and constitutional law. (Pen. Code §13887.1, subd. (b).)

Provides that the mission of the SAFE Team program shall also be to provide community education on sex offender registration requirements. The goal of community education requirements is to do all of the following:

Provides information to the public about ways to protect themselves and families from sexual assault.

Emphasizes the importance of using the knowledge of the presence of registered sex offenders to enhance public safety.

Explains that harassment or vigilantism against sex offender registrants may cause them to disappear and attempt to live without supervision, or to register as transients, which defeat the purpose of sex offender registration. (Pen. Code, § 13887.1, subd. (c)(1)-(3).)

States that the regional SAFE Teams may consist of officers and agents from the following law enforcement agencies:

- Police departments
- Sheriff's departments;
- The Bureau of Investigations of the Office of the District Attorney;
- County probation departments; (Pen Code, § 13887.2 subs (a)-(d).)

Provides to the extent that these agencies have available resources, SAFE Teams may consist of officers and agents of the following agencies:

- The Department of Justice
- The Department of the California Highway Patrol
- The Department of Corrections and Rehabilitation
- The Federal Bureau of Investigation. (Pen. Code, § 13887.2, subd. (e)(1)-(4).)

Requires SAFE Team programs to have the following objectives:

- To identify, monitor, arrest, and assist in the prosecution of habitual sex offenders who violate the terms and conditions of their probation or parole, who fail to comply with sex offender registration requirements, or who commit new sexual assault offenses;
- To collect data to determine if the proactive law enforcement procedures of this program are effective in reducing violent sexual assaults; and,
- To develop procedures for operating a multi-jurisdictional task force. (Penal Code Section 13887.3.)

This bill:

Authorizes each county to establish and implement a SART program for a the purpose of providing a forum for interagency cooperation and coordination, to assess and make recommendations for the improvement in the local sexual assault intervention, and to facilitate improved communications and working relationships to effectively address the problem of sexual assault in California.

States that each SART may consist of representatives of following public and private agencies or organizations:

- Law enforcement agencies;
- County district attorney's offices;
- Rape crisis centers;
- Local sexual assault forensic teams; and,
- Crime laboratories.

Provides that depending on local needs and goals, each SART may consist of representatives of following public and private agencies or organizations:

- Child protective services;
- Local victim and witness service centers;
- County public health departments;
- County mental health service departments; and,
- Forensic interview centers.

Requires SART programs to have the following functions or objectives:

- Review local sexual assault intervention undertaken by all disciplines to promote effective intervention and best practices;
- Assess relevant trends, including drug-facilitated sexual assault, the incidence of predatory date rape, and human sex trafficking;
- Evaluate the cost-effectiveness and feasibility of a per capita funding model for local sexual assault forensic examination teams to achieve stability for this component; and,
- Evaluate the effectiveness of individual agency and interagency protocols and systems by conduction case reviews of cases involving sexual assault.

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past eight years, this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its "ROCA" policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In February of this year the administration reported that as “of February 11, 2015, 112,993 inmates were housed in the State’s 34 adult institutions, which amounts to 136.6% of design bed capacity, and 8,828 inmates were housed in out-of-state facilities. This current population is now below the court-ordered reduction to 137.5% of design bed capacity.”(Defendants’ February 2015 Status Report In Response To February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).

While significant gains have been made in reducing the prison population, the state now must stabilize these advances and demonstrate to the federal court that California has in place the “durable solution” to prison overcrowding “consistently demanded” by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants’ Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee’s consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Need for This Bill

According to the author:

Sexual assault is now recognized as endemic in American society with 1 in 4 women reporting having been sexually assaulted in their lifetime. The first SART was established in Santa Cruz County in California in 1985. Some counties have moved slowly forward to emulate this model with varying composition and success. The California Sexual Assault Response Team (SART) Report was published by CCFMTC which visited 20 counties and observed varying success, composition, and direction. These needs were identified: a local agency champion; active participation by key agencies and organizations; increased collaboration and endorsement from elected and appointed officials; standard operating policies, procedures and protocols; case review to identify systemic problems and corrective action plans; reliable and systematic distribution of information about trends such as drug facilitated sexual assault, recognition and identification of predator date rape, human trafficking; ensuring the operational

and financial stability of the sexual assault forensic examination team which is dependent on fluctuating fee-for-service revenue yet stable monthly operating costs. As part of the forensic medical examination, examination teams collect DNA from the victim/patient which is submitted to the crime laboratory and uploaded into the Combined DNA Index System (CODIS). Other key evidence is collected as well.

2. College and University Sexual Assault Response and Prevention Offices

The issue of sexual assault on college campuses has been widely discussed in recent years, including through a noted documentary¹ Part of the discussion has concerned the fact that Title IX federal funding is conditioned on colleges and universities developing policies to address sexual assault. Title IX (20 U.S.C. §1681 et seq) prohibits discrimination on the basis of sex in any public or private school (from elementary through graduate school). Title IX is most commonly associated with requiring equal access to athletic programs for women in U.S. colleges, Title IX has a much broader reach than athletics access to athletics. Within the meaning of Title IX, discrimination also includes sexual harassment or sexual violence. Each school that receives federal funds must develop a policy to address discrimination of sex, including sexual assault. The school must designate a Title IX coordinator who shall oversee complaints of sex discrimination and identify and address patterns or systemic problems that discovered through reviewing complaints.

The U.S. Department of Education, Office for Civil Rights has explained what a school must do to comply with Title IX. A publication from the office entitled “Know Your Rights” has explained the requirements a school must meet in addressing sexual harassment or sexual violence:

Title IX requires schools to adopt and publish grievance procedures for students to file complaints of sex discrimination, including complaints of sexual harassment or sexual violence.

- Schools can use general disciplinary procedures to address complaints of sex discrimination. But all procedures must provide for prompt and equitable resolution of sex discrimination complaints.
- Every complainant has the right to present his or her case. This includes the right to adequate, reliable, and impartial investigation of complaints, the right to have an equal opportunity to present witnesses and other evidence, and the right to the same appeal processes, for both parties.
- Every complainant has the right to be notified of the time frame within which: (a) the school will conduct a full investigation of the complaint; (b) the parties will be notified of the outcome of the complaint; and (c) the parties may file an appeal, if applicable.
- Every complainant has the right for the complaint to be decided using a preponderance of the evidence standard (i.e., it is more likely than not that sexual harassment or violence occurred).
- Every complainant has the right to be notified, in writing, of the outcome of the complaint.
- Even though federal privacy laws limit disclosure of certain information in disciplinary proceedings:

¹ <http://www.nytimes.com/2015/01/26/movies/the-hunting-ground-a-film-about-rape-culture-at-colleges.html>

- Schools must disclose to the complainant information about the sanction imposed on the perpetrator when the sanction directly relates to the harassed student. This includes an order that the harasser stay away from the harassed student, or that the harasser is prohibited from attending school for a period of time, or transferred to other classes or another residence hall.
- Additionally, the Clery Act (20 U.S.C. §1092(f)), which only applies to postsecondary institutions, requires that both parties be informed of the outcome, including sanction information, of any institutional proceeding alleging a sex offense. Therefore, colleges and universities may not require a complainant to abide by a non-disclosure agreement, in writing or otherwise.
- The grievance procedures may include voluntary informal methods (e.g., mediation) for resolving some types of sexual harassment complaints. However, the complainant must be notified of the right to end the informal process at any time and begin the formal stage of the complaint process. In cases involving allegations of sexual assault, mediation is not appropriate.

Another federal law - the Clery Act - requires colleges to report crime on campus.² It has been found that reports of sexual assaults rise when Clery Act reporting is audited. Following an audit, reports fall again. Further, the quality of sexual assault investigations and disciplinary procedures on colleges and universities has been the subject of strong criticism.³ Including college law enforcement and Title IX coordinators on SART teams could improve the quality of investigations and the accuracy of reporting campus sexual assaults.

As explained in Comment 5, the author is amending this bill to include Title IX Coordinators and police agencies in its provisions.

3. Prevention Programs in College Settings; Consideration of Prevention Strategies by SART Teams

Colleges and universities - even large schools such as UC Berkeley, UCLA and USC - are relatively close-knit communities. Even apart from the threat of losing federal funding, it appears that sexual assault response and prevention programs could be effectively implemented and assessed in such settings. Successful programs could be adapted by SART participants to other settings. It is thus recommended that investigation and implementation of evidence-based sexual assault prevention programs and techniques be included in the list of SART objectives.

The University of New Hampshire⁴ largely developed a program of “bystander intervention” that has been demonstrated to be effective in reducing sexual assault. Bystander intervention is being notice implemented across the county. Television advertisements or public service message during the 2015 Super Bowl included dramatizations of bystander intervention techniques. Bystander intervention does not typically require direct confrontation of a potential sexual assault perpetrator. It more often involves recognizing circumstances where sexual assault may occur and changing the dynamics, context or direction of the situation.⁵ The Associated Students

² <http://www.nytimes.com/2015/02/08/opinion/sunday/confusion-about-college-sexual-assault.html>

³ http://www.nytimes.com/2014/02/09/education/edlife/stepping-up-to-stop-sexual-assault.html?_r=0

⁴ <http://cola.unh.edu/prevention-innovations/bringing-bystander%C2%AE>

⁵ http://www.nytimes.com/2014/02/09/education/edlife/stepping-up-to-stop-sexual-assault.html?_r=0

of the University of California are petitioning UC to widely offer bystander intervention training. Sexual assault prevention and treatment advocates at the University of Virginia have called for mandatory bystander intervention training for fraternities and sororities and the university has implemented bystander programs. Numerous other colleges and universities provide bystander intervention training or encourage students to learn and use bystander intervention techniques.

The New York State Department of Health generally describes bystander intervention as follows:

Bystander intervention is the act of feeling empowered and equipped with the knowledge and skills to effectively assist in the prevention of sexual violence. Bystander intervention doesn't have to jeopardize the safety of the bystander. 2 Bystander intervention and "bystander education programs teach potential witnesses safe and positive ways that they can act to prevent or intervene when there is a risk for sexual violence. This approach gives community members specific roles that they can use in preventing sexual violence, including naming and stopping situations that could lead to sexual violence before it happens, stepping in during an incident, and speaking out against ideas and behaviors that support sexual violence. It also gives individuals the skills to be an effective and supportive ally to survivors after an assault has taken place.

As explained in Comment 5, the author is amending this bill to include effective prevention strategies, as specified.

4. Prior Legislation

- AB 406 (Torres), Chapter 406, Statutes of 2013, Deleted the January 1, 2014 sunset date on provisions of law that authorizes counties to establish child abuse multidisciplinary personnel teams within that county to allow provider agencies to share confidential information in order to investigate reports of suspected child abuse and neglect
- AB 2229 (Brownley), Chapter 464, Statutes of 2010, authorized members of a multidisciplinary personnel team engaged in the prevention, identification, and treatment of child abuse to disclose and exchange information telephonically and electronically if there is adequate verification of the identity of the multidisciplinary team members involved in the disclosure or exchange of information.
- AB 1441 (Garcia), of the 2003-04 Legislative Session appropriated \$15 million from the General Fund to the Controller for distribution to county sheriffs for the implementation of county and regional SAFE Team programs. AB 1441 was held on the Assembly Appropriations suspense file.
- AB 1858 (Hollingsworth), Chapter 1090, Statutes of 2002, authorized counties to establish and implement SAFE Team programs

5. Proposed Amendments to Address Issues Raised in the Analysis

The author has agreed to the following amendments:

The bill sets out two lists of entities that may be included in a Sexual Assault and Response Team (SART). The amendments would make two additions to the list of entities that may be included in a SART "dependent on local needs and goals."

- University and College Title IX Coordinators;
- University and College police departments.

The bill also sets out SART objectives. The amendments would include prevention strategies and collaborative efforts as SART objectives. The amendment would read as follows:

[A SART] shall plan and implement effective prevention strategies or collaborate with other agencies and educational institutions to address both sexual assault by strangers and sexual assault perpetrated by persons known to the victim such as a friend or family member, a general acquaintance of the victim, predatory date rape, and associated risks created by binge drinking and drug-facilitated sexual assault.

There is a drafting error in the portion of the bill concerning objectives of SARTs. The bill refers to “predator date rape.” The bill should refer to “predatory date rape.”

-- END --