
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair

2021 - 2022 Regular

Bill No: SB 215 **Hearing Date:** March 9, 2021
Author: Leyva
Version: January 13, 2021
Urgency: No **Fiscal:** Yes
Consultant: KW

Subject: *DNA Evidence*

HISTORY

Source: Alameda County District Attorney
Joyful Heart Foundation
Natasha's Justice Project

Prior Legislation: SB 22 (Leyva) Chapter 588, Stats. 2019
AB 358 (Low) Held 2019, Assembly Appropriations
AB 2499 (Maienschein) Chapter 884, Stats. 2016

Support: Prosecutors Alliance of California; Riverside Sheriffs' Association; San Diego County District Attorney's Office

Opposition: None known

PURPOSE

The purpose of this bill is to provide survivors of sexual assault the ability to anonymously track the status of their individual sexual assault evidence kit through the SAFE-T database.

Existing law requires law enforcement agencies to report specified information regarding certain rape kit evidence, within 120 days of the collection of the kit, to the Department of Justice through a database established by the department.

Existing law states a survivor of sexual assault may inquire regarding the location and information regarding their sexual assault evidence kit.

Existing law requires mandatory entry of sexual assault evidence kits in SAFE-T database, updated evidence analysis, statement of unanalyzed evidence and annual reporting to Legislature. (Penal Code § 680.3)

Existing law states each law enforcement agency that has investigated a case involving the collection of a sexual assault kit shall, within 120 days, create an information profile for the kit on the SAFE-T database and report the following:

- 1) If biological evidence samples from the kit were submitted to a DNA laboratory for analysis.
- 2) If the kit generated a probative DNA profile.
- 3) If evidence was not submitted to a DNA laboratory for processing, the reason or reasons for not submitting evidence from the kit to a DNA laboratory for processing.
. (Penal Code§ 680.3 (a))

This bill instead requires the department to establish, on or before July 1, 2022, a process that allows a survivor of sexual assault to anonymously and electronically track and receive updates regarding the status, location, and information regarding their sexual assault evidence kit in the department's database.

COMMENTS

1. Need for This Bill

According to the author:

Following a sexual assault, survivors in California may choose to undergo a forensic medical examination to collect evidence in a rape kit. If the survivor also chooses to report the crime, the law enforcement agency with jurisdiction over the offense will take the kit into custody and submit it to a forensic laboratory for DNA analysis.

California law currently states that law enforcement and forensic laboratories are required to use the California Department of Justice's SAFE-T evidence system to maintain and update information about the location and testing status of all newly collected rape kits. California law (Chapter 692, Statutes of 2017) specifies that, upon the request of a sexual assault victim, the law enforcement agency shall 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. However, without a way for victims to track their kit online, this process is cumbersome and not private. Victims must currently contact law enforcement agencies by phone or in person to receive an update on their kits, which is clearly not a victim sensitive process. Adding a victim portal to SAFE-T would create an anonymous and straightforward option for victims to learn important information about the status of their rape kits.

Survivors assume that their sexual assault evidence kits are being tested but that is not always the case. California law (Chapter 588, Statutes of 2019) requires all law enforcement agencies to submit sexual assault kits (SAKs) within 20 days of receipt and have a crime lab test them no later than 120 days following receipt.

By amending the Penal Code to require the SAFE-T database to allow a survivor of sexual assault to anonymously and electronically track and receive updates regarding the status and location of the survivor's sexual assault evidence kit, SB 215 will ensure survivors have access to crucial information regarding their cases on their own terms. This important change will empower sexual assault survivors across California and help them continue their healing process. A rape kit tracking system with a secure victim access portal allows survivors to control when and how they obtain critical information about the status and location of their kits.

2. Allow victims to track electronically

Under existing law the Department of Justice requires sexual assault survivors to ask for updates regarding their evidence kits and where it is in the process. Existing law authorizes law enforcement agencies to inform the survivor about the status of their evidence kits, only upon request of the survivor, removing all privacy and sensitivity from the victim. This bill would provide survivors with an electronic victim portal in the SAFE-T database to track their evidence kits independently and anonymously.

According to one of the co-sponsors, Alameda County District Attorney's Office in a letter of support:

Survivors assume their sexual assault evidence kits are being tested but that is not always the case. Chapter 588, Statutes of 2019 of California law requires all law enforcement agencies to submit sexual assault kits (SAKs) within 20 days of receipt and have a crime lab test them no later than 120 days following receipt. This victim portal will provide the victims with the peace of mind where their sexual assault evidence kits in the process and ensure that law enforcement is following the law and analyzing the kits in a timely manner.

Not having access to such information can severely hamper recovery. Access to information about the status and location of their rape kits can help survivors counter the loss of self-determination and control that is often at the core of a sexual assault experience. A victim portal on the sexual assault kit tracking system ensures survivors have access to that information anonymously, and whenever they prefer.

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