

Date of Hearing: April 14, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 18 (Lackey) – As Introduced December 7, 2020

Policy Committee: Public Safety

Vote: 8 - 0

Urgency: No

State Mandated Local Program: Yes

Reimbursable: Yes

**SUMMARY:**

This bill requires a law enforcement agency to submit sexual assault forensic evidence received prior to January 1, 2016 to a crime lab for testing, and requires the crime lab to process that kit and upload DNA profiles to the Combined DNA Index System (CODIS). Specifically, this bill:

- 1) Requires a law enforcement agency to submit sexual assault forensic evidence received prior to January 1, 2016 to a crime lab for testing on or before January 31, 2023.
- 2) Requires crime labs, on or before January 31, 2024, to process sexual assault forensic evidence kits received by a law enforcement agency prior to January 1, 2016, and submitted to the crime lab on or before January 1, 2022.

**FISCAL EFFECT:**

- 1) Costs (General Fund (GF)) of \$317,000 in fiscal year (FY) 2021-22, \$1.3 million dollars in FY 2022-23 and \$649,000 in FY 2023-24 to the Department of Justice (DOJ) Division of Law Enforcement Bureau of Forensic Services (BSF) for personnel, operating expenses and equipment to test sexual assault forensic evidence received before January 1, 2016. DOJ estimates this bill would require it to test 2,000 sexual assault kits and anticipates 600 of those kits will require technical and administrative review from DOJ staff. DOJ anticipates 1,500 overtime hours from existing staff would be needed to perform all testing before being uploaded into CODIS.
- 2) Possible state reimbursable costs (local funds/GF) in the hundreds of thousands of dollars annually for local law enforcement agencies to test sexual assault forensic evidence received prior to January 1, 2016. For example, in 2019, the Los Angeles County Sheriff's Department anticipated additional personnel costs of about \$450,000 to process the sexual assault evidence in accordance with SB 22 (Leyva), Chapter 588, Statutes of 2019. SB 22 requires law enforcement to test sexual assault forensic evidence received after January 1, 2016. Local costs to comply with this bill would be subject to reimbursement by the state to the extent the Commission on State Mandates determines this bill imposes a reimbursable state-mandated local program.

**COMMENTS:**1) **Purpose.** According to the author:

The rape kit backlog illustrates that we are not committed to helping victims of rape. The backlog has allowed countless predators to go free and continue their attacks. This bill will ensure California delivers justice to victims of sexual assault and goes after these criminals with every tool available.

2) **Background.** The Sexual Assault Victims' Bill of Rights was amended in 2014. Those amendments encouraged law enforcement agencies and crime labs to handle and process sexual assault forensic evidence within a specific time frame. Specifically, a law enforcement agency was encouraged to either submit sexual assault forensic evidence to a crime lab within 20 days after it is booked into evidence or insure that a rapid turnaround DNA program is in place.

In 2019, the Legislature passed SB 22 (Leyva), Chapter 588, Statutes of 2019. SB 22 requires law enforcement agencies to submit to a crime lab all sexual assault forensic evidence received after January 1, 2016. SB 22 requires crime labs to process the evidence for DNA profiles and upload them to CODIS. This bill requires sexual assault evidence received prior to January 1, 2016 be tested and uploaded into CODIS. This requirement applies to tests where the victim knew their attacker or where the victim did not want to prosecute the assault.

The Governor's proposed 2021-22 budget allocates \$28.3 million dollars from the General Fund to the DOJ BFS to backfill the decline in fine and fee revenues in the DNA Identification Fund and to allow DOJ BFS to continue its obligation to test evidence for counties.

3) **DOJ Audit.** AB 3118 (Chiu), Chapter 950, Statutes of 2018 required each law enforcement agency, crime lab, medical facility or other facility in possession of sexual assault kits to conduct an audit of all the kits in its possession and report that information to the DOJ. DOJ issued its audit report in April 2020.

DOJ received responses from a total of 149 law enforcement agencies and crime laboratories. 134 agencies reported at least one untested sexual assault examination kit and 15 reported no untested sexual assault examination kits. DOJ's own crime laboratories process all sexual assault examination kits within 120 days of receipt and had no inventory of untested kits to report. DOJ found 35% of kits went untested because the victim declined prosecution, while 29% of kits weren't processed because the allegations couldn't be substantiated or officials found the case was not prosecutable. DOJ announced a \$2 million grant program to help California law enforcement agencies clear their backlogs.

4) **Prior Legislation.**

- a) AB 2481 (Lackey), of the 2019-2020 Legislative Session, was substantially similar to this bill. AB 2481 was held on this committee's Suspense file.
- b) AB 1496 (Frazier), of the 2019-2020 Legislative Session, requires a law enforcement agency to submit sexual assault evidence to a crime lab within 20 days or ensure that a

rapid turnaround DNA program is in place, for all sexual assault forensic evidence received on and after January 1, 2020. AB 1496 was held on this committee's Suspense File.

- c) AB 41 (Chiu), Chapter 694, Statutes of 2017, requires any local law enforcement agency investigating a case involving sexual assault to input specified information relating to the administration of a sexual assault kit into the DOJ's SAFE-T database within 120 days of collection.

**Analysis Prepared by:** Kimberly Horiuchi / APPR. / (916) 319-2081