

California Codes
Title 17

Penal Code Section 680. Sexual Assault Victims' DNA Bill of Rights

(a) This section shall be known as and may be cited as the "Sexual Assault Victims' DNA Bill of Rights."

(b) The Legislature finds and declares all of the following: (1) Deoxyribonucleic acid (DNA) and forensic identification analysis is a powerful law enforcement tool for identifying and prosecuting sexual assault offenders.

(2) Victims of sexual assaults have a strong interest in the investigation and prosecution of their cases.

(3) Law 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.

(4) The growth of the Department of Justice's Cal-DNA databank and the national databank through the Combined DNA Index System (CODIS) makes it possible for many sexual assault perpetrators to be identified after their first offense, provided that rape kit evidence is analyzed in a timely manner.

(5) Timely DNA analysis of rape kit evidence is a core public safety issue affecting men, women, and children in the State of California. It is the intent of the Legislature, in order to further public safety, to encourage DNA analysis of rape kit evidence within the time limits imposed by subparagraphs (A) and (B) of paragraph (1) of subdivision (i) of Section 803.

(6) A law enforcement agency assigned to investigate a sexual assault offense specified in Section 261, 261.5, 262, 286, 288a, or 289 should perform DNA testing of rape kit evidence or other crime scene evidence in a timely manner in order to assure the longest possible statute of limitations, pursuant to subparagraphs (A) and (B) of paragraph (1) of subdivision (i) of Section 803.

(7) For the purpose of this section, "law enforcement" means the law enforcement agency with the primary responsibility for investigating an alleged sexual assault.

(c) (1) Upon the request of a sexual assault victim the law enforcement agency investigating a violation of Section 261, 261.5, 262, 286, 288a, or 289 may 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. The law enforcement agency may, at its discretion, require that the victim's request be in writing. The law enforcement agency may respond to the victim's request with either an oral or written communication, or by electronic mail, if an electronic mail address is available. Nothing in this subdivision requires that the law enforcement agency 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.

(2) Subject to the commitment of sufficient resources to respond to requests for information, sexual assault victims have the following rights:

(A) The right to be informed 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) The right to be informed 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 of case evidence.

(C) The right to be informed whether or not there is a 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.

(3) This subdivision is intended to encourage law enforcement agencies to notify victims of information which is in their possession. It is not intended to affect the manner of or frequency with which the Department of Justice provides this information to law enforcement agencies.

(d) If the law enforcement agency elects not to analyze DNA evidence within the time limits established by subparagraphs (A) and (B) of paragraph (1) of subdivision (i) of Section 803, a victim of a sexual assault offense specified in Section 261, 261.5, 262, 286, 288a, or 289, where the identity of the perpetrator is in issue, shall be informed, either orally or in writing, of that fact by the law enforcement agency.

(e) If the law enforcement agency intends to destroy or dispose of rape kit evidence or other crime scene evidence from an unsolved sexual assault case prior to the expiration of the statute of limitations as set forth in Section 803, a victim of a violation of Section 261, 261.5, 262, 286, 288a, or 289 shall be given written notification by the law enforcement agency of that intention.

(f) Written notification under subdivision (d) or (e) shall be made at least 60 days prior to the destruction or disposal of the rape kit evidence or other crime scene evidence from an unsolved sexual assault case where the election not to analyze the DNA or the destruction or disposal occurs prior to the expiration of the statute of limitations specified in subdivision (i) of Section 803.

(g) 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 required to be provided by this section.

(h) It is the intent of the Legislature that a law enforcement agency responsible for providing information under subdivision (c) do so in a timely manner and, upon request of the victim or the victim's designee, advise the victim or the victim's designee of any significant changes in the information of which the law enforcement agency is aware. In order to be entitled to receive notice under this section, the victim or the victim's designee shall keep appropriate authorities informed of the name, address, telephone number, and electronic mail address of the person to whom the information should be provided, and any changes of the name, address, telephone number, and electronic mail address, if an electronic mailing address is available.

(j) A defendant or person accused or convicted of a crime against the victim shall have no standing to object to any failure to comply with this section. The failure to provide a right or notice to a sexual assault victim under this section may not be used by a defendant to seek to have the conviction or sentence set aside.

(j) The sole civil or criminal remedy available to a sexual assault victim for a law enforcement agency's failure to fulfill its responsibilities under this section is standing to file a writ of mandamus to require compliance with subdivision (d) or (e).