



AB-229 Criminal procedure: Sexually transmitted disease testing. (2025-2026)

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AMENDED IN ASSEMBLY FEBRUARY 24, 2025

CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

ASSEMBLY BILL

NO. 229

Introduced by Assembly Member Davies

January 13, 2025

An act to amend Section 1524.1 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 229, as amended, Davies. Criminal procedure: Sexually transmitted disease testing.

Existing law authorizes a court to issue a search warrant, at the request of a victim and in specified circumstances, to test the accused's blood or oral mucosal transudate saliva with an HIV test for the primary purpose of informing the victim whether the defendant is infected with the HIV virus. Existing law authorizes a victim to disclose test results received as the victim deems necessary to protect the victim's health and safety or to protect the health and safety of the victim's family or sexual partner. Improper disclosure of test results is a crime.

This bill would authorize a search warrant to require testing a defendant for any sexually transmitted disease. The bill would also authorize the parent or guardian of a minor victim or the legal representative of a victim to exercise any of the rights conferred by these provisions, including receiving and disclosing test results. By expanding the definition of a crime, this bill would impose a state-mandated local program.

Existing law, when the defendant has been charged with a specified sex crime, authorizes the court to issue a search warrant for testing when requested by a victim of an uncharged sex offense.

This bill would add engaging in sexual acts with a child under 10 years of age and sex with a person confined to a health facility or detention facility to the crimes to which this provision applies.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1524.1 of the Penal Code is amended to read:

1524.1. (a) The primary purpose of the testing and disclosure provided in this section is to benefit the victim of a crime by informing the victim whether the defendant is infected with a sexually transmitted disease, including, but not limited to, chlamydia, gonorrhea, hepatitis, herpes, human immunodeficiency virus (HIV), human papillomavirus (HPV), trichomoniasis, and syphilis. It is also the intent of the Legislature in enacting this section to protect the health of both victims of crime and those accused of committing a crime. This section does not authorize mandatory testing or disclosure of test results for the purpose of a charging decision by a prosecutor, nor, except as specified in subdivisions (g), (i), and (l), does this section authorize breach of the confidentiality provisions contained in Chapter 7 (commencing with Section 120975) of Part 4 of Division 105 of the Health and Safety Code.

(b) (1) Notwithstanding the provisions of Chapter 7 (commencing with Section 120975) of Part 4 of Division 105 of the Health and Safety Code, when a defendant has been charged by complaint, information, or indictment with a crime, or a minor is the subject of a petition filed in juvenile court alleging the commission of a crime, the court, at the request of the victim, may issue a search warrant for the purpose of testing the accused's blood, oral mucosal transudate saliva, urine, or rectal, urethral, or cervical discharge for a sexually transmitted disease only under the following circumstances: when the court finds, upon the conclusion of the hearing described in paragraph (3), or when a preliminary hearing is not required to be held, that there is probable cause to believe that the accused committed the offense, and that there is probable cause to believe that blood, semen, or any other bodily fluid identified by the State Department of Public Health ~~or the State Department of Health Care Services~~ in appropriate regulations as capable of transmitting a sexually transmitted disease has been transferred from the accused to the victim.

(2) Notwithstanding Chapter 7 (commencing with Section 120975) of Part 4 of Division 105 of the Health and Safety Code, when a defendant has been charged by complaint, information, or indictment with an offense under Section 220, 261, 261.5, 264.1, 266c, 269, 286, 287, 288, 288.5, 288.7, 289, 289.5, or 289.6, or former Section 262 or 288a, or with an attempt to commit any of the offenses, and is the subject of a police report alleging the commission of a separate, uncharged offense that could be charged under Section 220, 261, 261.5, 264.1, 266c, 269, 286, 287, 288, 288.5, 288.7, 289, 289.5, or 289.6, or former Section 262 or 288a, or of an attempt to commit any of the offenses, or a minor is the subject of a petition filed in juvenile court alleging the commission of an offense under Section 220, 261, 261.5, 264.1, 266c, 269, 286, 287, 288, 288.5, 288.7, 289, 289.5, or 289.6, or former Section 262 or 288a, or of an attempt to commit any of the offenses, and is the subject of a police report alleging the commission of a separate, uncharged offense that could be charged under Section 220, 261, 261.5, 264.1, 266c, 269, 286, 287, 288, 288.5, 288.7, 289, 289.5, or 289.6, or former Section 262 or 288a, or of an attempt to commit any of the offenses, the court, at the request of the victim of the uncharged offense, may issue a search warrant for the purpose of testing the accused's blood, oral mucosal transudate saliva, urine, or rectal, urethral, or cervical discharge for a sexually transmitted disease only under the following circumstances: when the court finds that there is probable cause to believe that the accused committed the uncharged offense, and that there is probable cause to believe that blood, semen, or any other bodily fluid identified by the State Department of Public Health ~~or the State Department of Health Care Services~~ in appropriate regulations as capable of transmitting a sexually transmitted disease has been transferred from the accused to the victim. As used in this paragraph, "Section 289.5" refers to the statute enacted by Chapter 293 of the Statutes of 1991, penetration by an unknown object.

(3) (A) Prior to the issuance of a search warrant pursuant to paragraph (1), the court, when applicable and at the conclusion of the preliminary examination if the defendant is ordered to answer pursuant to Section 872, shall conduct a hearing at which both the victim and the defendant have the right to be present. During the hearing, only affidavits, counter affidavits, and medical reports regarding the facts that support or rebut the issuance of a search warrant under paragraph (1) shall be admissible.

(B) Prior to the issuance of a search warrant pursuant to paragraph (2), the court, when applicable, shall conduct a hearing at which both the victim and the defendant are present. During the hearing, only affidavits, counter affidavits, and medical reports regarding the facts that support or rebut the issuance of a search warrant under paragraph (2) shall be admissible.

(4) A request for a probable cause hearing made by a victim under paragraph (2) shall be made before sentencing in the superior court, or before disposition on a petition in a juvenile court, of the criminal charge or charges filed against the defendant.

(c) (1) When the person has been charged by complaint, information, or indictment, or is the subject of a petition filed in a juvenile court alleging the commission of an offense pursuant to Section 220, 261, 261.5, 264.1, 266c, 269, 286, 287, 288, 288.5, 288.7, 289, 289.5, 289.6, or former Section 262 or 288a, or with an attempt to commit any of the offenses, the prosecutor shall advise the victim of their right to make this request. To assist the victim of the crime to determine whether the victim should make this request, the prosecutor shall refer the victim to the local health officer for prerequest counseling to help that person understand

the extent to which the particular circumstances of the crime may or may not have put the victim at risk of transmission of a sexually transmitted disease from the accused, to ensure that the victim understands both the benefits and limitations of the current tests, to help the victim decide whether the victim wants to request that the accused be tested, and to help the victim decide whether the victim wants to be tested.

(2) The Department of Justice, in cooperation with the California District Attorneys Association, shall prepare a form to be used in providing victims with the notice required by paragraph (1).

(d) (1) If the victim decides to request testing of the accused, the victim shall request the issuance of a search warrant, as described in subdivision (b).

(2) The failure of a prosecutor to refer or advise the victim as provided in this subdivision, or the failure or refusal by the victim to seek or obtain counseling, shall not be considered by the court in ruling on the victim's request.

(e) The local health officer shall make provision for administering all tests ordered pursuant to subdivision (b).

(f) Blood, oral mucosal transudate saliva, urine, or rectal, urethral, or cervical discharge tested pursuant to subdivision (b) shall be subjected to appropriate confirmatory tests to ensure accuracy of the first test results, and test results shall not be transmitted to the victim or the accused unless any initially reactive test result has been confirmed by appropriate confirmatory tests for positive reactors.

(g) The local health officer shall have the responsibility for disclosing test results to the victim who requested the test and to the accused who was tested. However, positive test results shall not be disclosed to the victim or to the accused without also providing or offering professional counseling appropriate to the circumstances.

(h) The local health officer and victim shall comply with all laws and policies relating to medical confidentiality subject to the disclosure authorized by subdivisions (g), (i), and (l). An individual who files a false report of sexual assault in order to obtain test result information pursuant to this section shall, in addition to any other liability under law, be guilty of a misdemeanor punishable as provided in subdivision (c) of Section 120980 of the Health and Safety Code. An individual as described in the preceding sentence who discloses test result information obtained pursuant to this section shall also be guilty of an additional misdemeanor punishable as provided for in subdivision (c) of Section 120980 of the Health and Safety Code for each separate disclosure of that information.

(i) A victim, parent or guardian of a minor victim, or authorized legal representative for a victim who receives information from the health officer pursuant to subdivision (g) may disclose the test results as the victim or authorized recipient deems necessary to protect the victim's health and safety or the health and safety of the victim's family or sexual partner.

(j) A person transmitting test results or disclosing information pursuant to this section shall be immune from civil liability for actions taken in compliance with this section.

(k) The results of blood, oral mucosal transudate saliva, urine, or rectal, urethral, or cervical discharge tested pursuant to subdivision (b) shall not be used in a criminal proceeding as evidence of either guilt or innocence.

(l) Rights of the victim conferred by this section may also be exercised by a parent or guardian of the victim, if the victim is a minor, or by an authorized legal representative of the victim.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.