



**PUBLIC SAFETY POLICY COMMITTEE**  
**Friday, June 5, 2020**  
**9:30am – 12:30pm**

To join the meeting, please register here:

<https://zoom.us/meeting/register/tJUlf-Ctpz8vEtQ6HukEhnrIPmNyYIn6kUyM>

Once you register, you will immediately receive a link to join the meeting.

**AGENDA**

**I. Welcome and Introductions**

Speaker: Chair Marty Simonoff, Council Member – City of Brea

Speaker: Vice Chair Daniel Hahn, Police Chief – City of Sacramento

**II. Public Comment**

**III. General Briefing**

*Informational*

**IV. COVID-19 Update**

*Informational*

**V. Legislative Agenda (Attachment A)**

*Action Item*

**AB 2617 (Gabriel) Firearms. Prohibited Persons.**

Speakers

Support: Assembly Member Jesse Gabriel (AD 45)

Opposition: Kathy Sher, Legislative Attorney, American Civil Liberties Union

**AB 2481 (Lackey) Sexual Assault Forensic Evidence. Testing.**

Speakers

Support: Assembly Member Tom Lackey (AD 36)

Opposition: Representative from the California Public Defenders Association (*Invited*)

**VI. Legislative Update**

*Informational*

**Next Meeting (tent.): Annual Conference, Long Beach, October 7**

*Staff will notify committee members after August 17 if the policy committee will be meeting in October.*

**NOTE:** Policy committee members should be aware that lunch is served at these meetings. The state's Fair Political Practices Commission takes the position that the value of the lunch should be reported on city officials' statement of economic interests form. Because of the service you provide at these meetings, the League takes the position that the value of the lunch should be reported as income (in return for your service to the committee) as opposed to a gift (note that this is not income for state or federal income tax purposes—just Political Reform Act reporting purposes). If you would prefer not to have to report the value of the lunches as income, we will let you know the amount so you may reimburse the League.

**Brown Act Reminder:** The League of California Cities' Board of Directors has a policy of complying with the spirit of open meeting laws. Generally, off-agenda items may be taken up only if:

1. Two-thirds of the policy committee members find a need for immediate action exists and the need to take action came to the attention of the policy committee after the agenda was prepared (Note: If fewer than two-thirds of policy committee members are present, taking up an off-agenda item requires a unanimous vote); or
2. A majority of the policy committee finds an emergency (for example: work stoppage or disaster) exists.

A majority of a city council may not, consistent with the Brown Act, discuss specific substantive issues among themselves at League meetings. Any such discussion is subject to the Brown Act and must occur in a meeting that complies with its requirements.

**Informational Items:** Any agenda item listed for information purposes may be acted upon by the Policy Committee if the Chair determines such action is warranted and conforms with current League policy. If the committee wishes to revise League policy or adopt new policy for an item listed as informational, committees are encouraged to delay action until the next meeting to allow for preparation of a full analysis of the item.



**PUBLIC SAFETY POLICY COMMITTEE**  
**Legislative Update**  
**June 5, 2020**

**1. [AB 2617](#) (Gabriel) Firearms. Prohibited Persons.**

**Bill Summary:**

Assembly Bill 2617 would make it an offense to possess a firearm in violation of an out-of-state issued gun violence restraining order (GVRO). Any violation of this provision would constitute a misdemeanor, and would result in a five year ban on purchasing or possessing firearms or ammunition.

**Bill Description:**

This bill would require California to honor Gun Violence Restraining Orders (GVRO) that are issued by an out-of-state jurisdiction. The bill also would clarify the time frame for a law enforcement officer to file a copy of a temporary emergency GVRO with the court. Specifically, this bill would:

- State that any person who owns or possesses a firearm or ammunition with knowledge that they are prohibited from doing so because of a valid order issued by an out-of-state jurisdiction that is similar or equivalent to a GVRO is guilty of a misdemeanor.
- Prohibit a person convicted of the misdemeanor, described above, from owning or possessing a firearm or ammunition for a five-year period, to commence upon the expiration of the existing gun violence restraining order.
- State that a law enforcement officer who requests a temporary emergency GVRO must file a copy of the order with the court as soon as practicable, but not later than 3 court days, after issuance.

**Background:**

About GVROs

Once a GVRO is issued against a person, it prohibits him or her from purchasing or possessing firearms or ammunition and authorizes law enforcement to remove any firearms or ammunition already in the individual's possession. California's statutory scheme establishes three types of GVRO's: 1) a temporary emergency GVRO, 2) an ex-parte GVRO, and 3) a GVRO issued after notice and hearing.

A temporary emergency GVRO expires 21 days after it is issued. Within those 21 days, there must be a hearing to determine whether a more permanent GVRO should be issued.

An ex parte GVRO is based on an affidavit filed by the petitioner which sets forth the facts establishing the grounds for the order. The court will determine whether good cause exists to issue the order. If, the court issues the order, it can remain in effect for up to 21 days. Within that time frame, the court must provide an opportunity for a hearing. At the hearing, the court can determine whether the firearms should be returned to the restrained person, or whether it should issue a more permanent order. Effective September 1, 2020, a GVRO issued after notice and hearing has been provided to the person to be restrained can last for one to five years.

A law enforcement officer may seek a temporary emergency GVRO from a judicial officer orally or by submitting a written petition to a judicial officer. The officer must assert and the judicial officer must find that there is reasonable cause to believe two things. First, the subject of the order poses an immediate and present danger to him or herself by virtue of access to a firearm or ammunition. Second, the temporary emergency order is necessary to prevent injury to the subject of the order or another because alternative solutions have proved ineffective or are otherwise inadequate or inappropriate. An officer must file a copy of the temporary emergency GVRO with the court as soon as practicable after issuance of the order. With regard to the time period, this bill would specify that the order must be filed “as soon as practicable, but not later than three court days after issuance.”

An immediate family member or a law enforcement officer can petition for an ex parte GVRO. Effective September 1, 2020, a coworker may petition for a GVRO if they have had substantial and regular interactions with the subject for at least one year and have obtained the approval of the employer. Effective September 1, 2020, an employee or teacher of a secondary or postsecondary school that the subject has attended in the last six months, if the employee or teacher has obtained the approval of a school administrator or a school administration staff member with a supervisory role may petition for a GVRO.

#### According to the Author:

*Background:* Gun violence restraining orders allow certain, closely related individuals or law enforcement officers to request an order preventing an individual from owning, possessing, or purchasing a firearm for 21 days upon showing an increased risk of perpetuating gun violence. The duration of the order can be extended for up to one or five years.

There are many different types of restraining orders in California law which prohibit the ownership, possession, or purchase of firearms for the duration of the order. Many other states have similar restraining orders. In a study<sup>1</sup> of recent mass shootings, over half of the perpetrators exhibited warning signs before the crime. Recognizing that protection orders can prevent these and other acts of violence, 16 other states<sup>2</sup> have implemented orders similar to California's GVRO.

*Problem:* While California has recognized Domestic Violence Restraining Orders and other forms of protective orders from other states, it has not specifically provided that authority to GVROs issued by other states. This means that individuals who have been found by an out-of-state court to pose a dangerous risk of gun violence are able to circumvent a restraining order by moving or travelling to California.

From 2000 to 2015, there were [24,922 firearm homicides and 23,682 firearm suicides](#) in California. GVROs are a key tool to prevent these tragedies by temporarily removing firearms from those most at risk. The ability to enforce these orders and similar orders from other states, however, stops at the state's borders.

[Thirty-five percent of guns traced](#) by law enforcement in California come from out-of-state. The interdependence of our gun laws and public safety across our state border was shown most

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<sup>1</sup>Ten Years of Mass Shootings in the United States: An Everytown for Gun Safety Support Fund Analysis <https://everytownresearch.org/massshootingsreports/mass-shootings-in-america-2009-2019/>

<sup>2</sup> See ‘What are Extreme Risk Laws?’ <https://www.bradyunited.org/fact-sheets/what-are-extreme-risk-laws>

recently by the shooting at the Gilroy Garlic Festival. When individuals who purchase weapons from out-of-state or have been identified in other states as posing a risk to public safety are able to avoid restriction by entering California, it is essential that our law enforcement professionals are empowered to enforce out-of-state orders.

*Solution:* This bill would make it an offense to possess a firearm in violation of a protective order issued by another state. Any violation of this provision would result in a 5 year ban on purchasing or possessing firearms or ammunition. The effectiveness of GVROs and similar protective orders in other states and the continued risk posed by guns purchased in other states shows that it is imperative to ensure that law enforcement is able to enforce these orders regardless of where a person travels.

#### California Recognizes and Upholds a Variety of Firearm Prohibitions Imposed by Other States:

The federal Violence Against Women Act (VAWA) requires jurisdictions to give full faith and credit to protection orders issued by other jurisdictions.<sup>3</sup> Full faith and credit means that jurisdictions must honor and enforce protection orders from outside of the state.

Under federal law, if the protection order is ex parte, notice and opportunity to be heard must be provided within the time required by the law of the issuing jurisdiction, and in any event within a reasonable period of time after the order is issued, sufficient to protect the respondent's due process rights.<sup>4</sup> This means that the protection order is enforceable after the respondent has been provided with notice even if the hearing has not yet been held, so long as he or she has an opportunity to be heard within a reasonable period of time before a final order is issued.<sup>5</sup>

California codified full faith and credit for out-of-state domestic violence orders in 2019. AB 164 (Cervantes, 2019) prohibited a person from purchasing or possessing a firearm in California if that person is subject to a similar valid restraining order, injunction, or protective order issued by another state for acts including civil harassment, workplace violence, school violence, and domestic violence, if the out-of-state order includes a firearm prohibition. This bill would take a similar approach for out-of-state orders that are comparable to California GVROs.

#### States with Similar Prohibitions to GVRO and Standard of Proof for Final Orders:

Giffords Law Center to Prevent Gun Violence has compiled information on states that have created "Extreme Risk Protection Orders," and describes such orders as a process that allows families, household members, or law enforcement officers to petition a court directly for an extreme risk protection order which temporarily restricts a person's access to guns.

California's version of an "Extreme Risk Protection Order" is the GVRO. Below is a list of states that have Extreme Risk Protection Orders and their respective standard of proof required before a court can issue a final order:

#### *Preponderance of the Evidence Standard*

District of Columbia, Hawaii, Massachusetts, New Jersey, New Mexico (Effective in May 2020), Washington

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<sup>3</sup> 18 U.S.C. § 2265

<sup>4</sup> 18 U.S.C. § 2265(b)(2)

<sup>5</sup> See *A Prosecutor's Guide to Full Faith and Credit for Protection Orders: Protecting Victims of Domestic Violence* at <http://www.ncdsv.org/images/ProsecutorGuideFFCforPO.pdf>

### *Clear and Convincing Evidence Standard*

California, Colorado, Delaware, Florida, Illinois, Maryland, Nevada, New York, Oregon, Rhode Island, Vermont

California has a higher standard of proof (clear and convincing evidence) than some states (preponderance of the evidence) that have similar firearm restraining orders. As such, the elements that must be demonstrated to authorize an out-of-state firearm restraining order do not necessarily match the elements required in California.

This bill would require that an out-of-state order be “similar or equivalent to a GVRO” to trigger criminal liability for possession in California in violation of the out-of-state order. It is not clear if an order issued under a different standard of proof would be considered “similar or equivalent” to a California GVRO.<sup>6</sup>

### California is a Point of Contact State for Background Checks:

California law requires any prospective purchaser of (or transferee or person being loaned) a firearm to submit an application to purchase the firearm (also known as a “Dealer Record of Sale” or “DROS” form) through a licensed dealer to DOJ. The dealer must submit firearm purchaser information to DOJ on the date of the application through electronic transfer, unless DOJ makes an exception allowing a different format. The purchaser must present “clear evidence” of his or her identity and age to the dealer (either a valid California driver’s license or a valid California identification card issued by the Department of Motor Vehicles). Dealers must obtain the purchaser’s name, date of birth, and driver’s license or identification number electronically from the magnetic strip on the license or ID card. Once this information is submitted, DOJ will check available and authorized records, including the [National Instant Criminal Background Check System](#) (NICS) database, in order to determine whether the person is prohibited from possessing, receiving, owning, or purchasing a firearm by state or federal law.

Federal law provides states with the option of serving as a state “point of contact” and conducting their own background checks using state, as well as federal, records and databases, or having the checks performed by the FBI using only the federal NICS database.

California is a state that acts as a “Point of Contact” for all firearm transactions. Effective July 1, 2017, Proposition 63 required the California DOJ to continue to serve as the point of contact for firearm purchaser background checks. Firearms dealers must therefore initiate the background check required by federal law by contacting the California DOJ. When California DOJ runs the background check they also check whether the person is federally eligible to purchase a firearm. When the NICS check indicates that a person is prohibited, DOJ does not necessarily see the reason the person is prohibited.

In addition to checking the federal NICS database, DOJ is required to examine its own records, as well as those records that it is authorized to request from the State Department of State Hospitals. If the person is prohibited from possessing firearms under state or federal law, DOJ must immediately notify the dealer and the local sheriff or chief of police in the city and/or county where the sale was made. Licensed dealers are prohibited from delivering a firearm to a purchaser or transferee if the dealer has been notified by DOJ that the person is prohibited from possessing firearms.

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<sup>6</sup> The “similar or equivalent” language is the same language that was used in AB 164 (Cervantes), Chapter 726, Statutes of 2019 for out-of-state domestic violence orders.

This bill specifies that any person who owns or possesses a firearm or ammunition with knowledge that they are prohibited from doing so because of a by a valid order issued by an out-of-state jurisdiction that is similar or equivalent to a Gun Violence Restraining Order (GVRO) is guilty of a misdemeanor. This bill would not change the process that DOJ engages in when determining if someone is a prohibited person when conducted a background check into a potential firearm purchase. An individual with an out-of-state GVRO would not show up as a prohibited person on a background check unless the state that issued the GVRO uploaded the order into the NICS system. If the out-of-state order was in the NICS system the person would show up as a prohibited person.

**Fiscal Impact:**

Unknown

**Existing League Policy:**

None that directly addresses the issues raised in this bill. However, the following existing policy appears to be most relative to the issue of GVROs:

- The League supports policies that protect public safety by reducing access to firearms by the mentally ill. The League also supports additional tools and resources to address critical community challenges such as homelessness, mental health, domestic violence, drug rehabilitation, human trafficking, and workforce development for ex-offender reentry.<sup>7</sup>
- The League recognizes that mental illness and firearms form a dangerous combination that threatens public safety. Consequently, the League supports policies that restrict persons with mental health disorders from possessing or owning a firearm. The League supports policies that ultimately allow such persons to petition for retrieval of their firearms.<sup>8</sup>
- The League supports the reduction of violence through strategies that address gang violence, domestic violence, youth access to tools of violence, including but not limited to firearms, knives, etc., and those outlined in the California Police Chiefs Policy Paper endorsed by the League Board of Directors.<sup>9</sup>

**Support and Opposition:**

Support

Judicial Council of California (Sponsor)  
Alameda County District Attorney's Office  
Bay Area Student Activists  
Brady California United Against Gun Violence  
Brady United Against Gun Violence  
California District Attorneys Association  
California State Sheriffs' Association  
EveryTown for Gun Safety Action Fund  
Friends Committee on Legislation of California  
Giffords Law Center to Prevent Gun Violence  
Hadassah, the Women's Zionist of America, INC.

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<sup>7</sup> 2019 & 2020 League Strategic Priority #5 – Address the Public Safety Concerns of Cities

<sup>8</sup> League Summary of Existing Policy and Principles: Public Safety, Firearms, Adopted February 2020

<sup>9</sup> 2018 League Summary of Existing Policy and Principles, pg. 45 - Public Safety; Violence

Jewish Center for Justice  
Los Angeles City Attorney  
Los Angeles County District Attorney's Office  
Los Angeles County Sheriff's Department  
March for Our Lives Action Fund  
Riverside Sheriffs' Association  
San Fernando Valley Young Democrats  
Santa Barbara Women's Political Committee  
Youth Alive!

Opposition

American Civil Liberties Union  
California Attorneys for Criminal Justice

**Comments:**

Current law makes it a misdemeanor offense for a person to own or possess a firearm or ammunition with knowledge that he or she is prohibited from doing so by a GVRO. This bill would extend this criminal offense to include similar or equivalent GVROs that were issued in another state.

Supporters make the claim that thirty-five percent of guns traced by law enforcement in California come from outside the state. They point to instances such as the shooting at the Gilroy Garlic Festival—where the perpetrator purchased a firearm in neighboring Nevada, to emphasize their assertion that individuals who have been identified in other states as posing a risk to public safety are able to circumvent a restraining order by moving to or simply traveling to California. From their perspective, it is essential that California law enforcement is empowered to enforce out-of-state GVROs.

Opponents, meanwhile, principally note that while the bill calls for the out-of-state order to be promptly entered into a DOJ database, there is no similar provision for correcting or removing expired restraining orders from the DOJ database. As such, opponents believe a failure to maintain accurate law enforcement databases frequently leads to wrongful arrests and harassment of individuals, and that such unlawful arrests are often used to later justify what would otherwise be unlawful searches and seizures.

In weighing the practical implications of AB 2617, there are a couple considerations that come to mind.

First, this bill would certainly provide another tool to help prevent unnecessary tragedy by authorizing law enforcement to temporarily remove firearms from those known in other states to present the most risk.

Second, it is unclear how California law enforcement would be made aware of an out-of-state GVRO. For instance, to the extent that a law enforcement officer was trying to ascertain whether a person in California had an active out-of-state GVRO, the databases normally consulted by a law enforcement officer, such as the armed prohibited persons system (APPS), would not likely contain a record of an out-of-state GVRO, unless the GVRO also happened to be filed in California.

This second point appears to underscore the need for both enhanced communication between both law enforcement agencies operating in different states, as well as the databases they utilize to monitor criminal history.

## 2. [AB 2481](#) (Lackey) – Sexual Assault Forensic Evidence. Testing.

### **Bill Summary:**

This bill would establish a timeline for when specified sexual assault forensic evidence must be submitted to a crime lab, and when such evidence must be tested by a crime lab.

### **Bill Description:**

This bill would require a law enforcement agency to any submit sexual assault kits that were received prior to January 1, 2016 to a crime lab, and would require crime labs to process that kit and upload DNA profiles to the Combined DNA Index System (CODIS).

Specifically, this bill would:

- Require law enforcement agencies to submit sexual assault kits that were received prior to January 1, 2016 to a crime lab no later than January 31, 2022.
- Require crime labs to process sexual assault kits that were received by a law enforcement agency prior to January 1, 2016 no later than January 31, 2023.
- Specify that if a sexual assault kit would not be eligible for uploading qualifying DNA profiles into CODIS, pursuant to state and federal regulations, the crime lab is not required to process the evidence kit.
- Clarify that if a victim of crime, from whom a sexual assault evidence kit was collected prior to January 1, 2016, notifies the law enforcement agency or the crime lab that the victim does not want the kit tested, the crime lab is not required to test the kit.

### **Background**

#### According to the Author

#### *Background*

“Sexual assault is among the most difficult crimes to realize judicial justice. The destruction of crucial evidence happens in response to an individual’s desire to cleanse himself or herself of an attacker, or deferral of medical examination. This is due to the personal nature of the crime, which leaves victims in great and understandable dismay.

An expedited response is prudent for evidence collection. The DNA collected in a medical examination is colloquially referred to as a rape-kit. This evidence may or may not be transported to the police department, at the direction of the victim. DNA evidence can be considered the most crucial in courtroom settings.

SB 813 (Leyva-2016) fortified a retroactive avenue for victims eliminating the statute of limitations on rape. Thereafter, SB 22 (2019) mandated that all newly collected rape-kits are tested for DNA evidence. This legislation strengthened victim protections.”



### *The Problem*

“Initially, DNA testing only occurred when the police department ordered that a kit be analyzed for evidence. The untested rape-kits created a backlog, as they were collected but failed to be tested.

The Attorney General released an audit of untested Sexual Assault Examination kits revealing nearly 14,000 untested kits in the State of California. The DNA results from these rape-kits could assist in identifying serial rapists and resolve long-standing sex crimes.

These results may also contain peace of mind for victims that fear or know their rapists are living unencumbered by justice.

Adjudication of sex crimes is of the upmost importance, because it allows victims to begin their recovery process without constant fear of being exposed to their attacker. Exposure can trigger the post-traumatic stress that many victims endure after being assaulted.”

### *Solution*

“Rape-kits collected prior to 2016 should be tested before the DNA degrades any further. Retroactive DNA testing is known to consolidate crimes, which assists investigators in identifying patterns of criminality.”

### *What This Bill Will Do*

“AB 2481 will mandate the testing of rape-kits, including those prior to 2016. It provides a timeline for law enforcement to submit all forensic evidence to the crime lab and for the processing of DNA testing.

This legislation will effectively eliminate the backlog of untested rape-kits in the state of California. This legislation ensures that law enforcement assisting victims will be able to analyze the situation with the most readily available data.”

### About Sexual Assault Kits

After a sexual assault has occurred, victims of the crime may choose to be seen by a medical professional, who then conducts an examination to collect any possible biological evidence left by the perpetrator. To collect forensic evidence, many jurisdictions provide what is called a “sexual assault kit.” Sexual assault kits often contain a range of scientific instruments designed to collect forensic evidence such as swabs, test tubes, microscopic slides, and evidence collection envelopes for hairs and fibers. The composition of sexual assault kits vary depending on jurisdiction. For example, according to a [report](#)<sup>10</sup> from 2011, the police and sheriff’s department in Los Angeles use identically arranged sexual assault kits, while the rest of California does not.

Analyzing forensic evidence from sexual assault kits assists in linking the perpetrator to the sexual assault. Generally, once a hospital or clinic has conducted a sexual assault kit examination, it transfers the kit to a local law enforcement agency. From there, the law enforcement agency may send the kit to a forensic laboratory. Evidence collected from a kit can be analyzed by crime laboratories and could provide the DNA profile of the offender. Once law

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<sup>10</sup> (NIJ, *The Road Ahead: Unanalyzed Evidence in Sexual Assault Cases*, May 2011, at page 2, available at: <https://www.ncjrs.gov/pdffiles1/nij/233279.pdf>, [as of Mar. 13, 2020].)

enforcement authorities have that genetic profile, they could then upload the information onto the [Combined DNA Index System](#) (CODIS).<sup>11</sup>

#### Mandatory Testing of Sexual Assault Kits

In 2019, the Legislature passed SB 22 (Leyva), which required law enforcement agencies to submit all sexual assault forensic evidence to a crime lab, and thereby required crime labs to process the evidence for DNA profiles and upload them to CODIS. SB 22 applied to all sexual assault evidence that was received on or after January 1, 2016. This bill would require sexual assault evidence kits that were received prior to January 1, 2016 to also be sent to a crime lab and tested.

#### **Fiscal Impact:**

Unknown

#### **Existing League Policy:**

None

#### **Support and Opposition:**

##### Support

Alameda County District Attorney's Office

Crime Victims United of California

Joyful Heart Foundation

National Association of Social Workers, California Chapter

##### Opposition

California Public Defenders Association

#### Arguments in Support

Proponents argue: “DNA evidence is a powerful law enforcement tool. When tested, rape kit evidence can identify unknown assailants, link crime scenes together, reveal serial offenders, and exonerate the wrongfully convicted. Too often, however, these rape kits languish untested for years—even decades—in storage facilities. While these kits sit on shelves, dangerous offenders remain free on the streets and survivors wait for justice.”

“Testing of old kits will bring justice to survivors who have been waiting for years—some decades, exonerate the wrongfully convicted, and ensure public safety by taking dangerous offenders off the streets. The bill would also send a powerful message to survivors that they—and their cases—matter. Testing every kit also sends a message to perpetrators that law enforcement will employ every available tool to apprehend and prosecute them.”

“In the last decade, communities across the country have discovered thousands of backlogged kits in storage and taken action. So far, testing backlogged rape kits in three large cities—Cleveland, Detroit, and Memphis—has resulted in the identification of over 1,300 suspected serial rapists. These serial offenders have been connected to crimes across at least 40 states and Washington, D.C. Serial rapists have been uncovered in many other cities, including in Duluth, MN, Portland, OR, Wilmington, DE and Virginia Beach, VA. In addition, recent research has found that rapists are also serial offenders who commit all kinds of crime from burglary to domestic violence to homicide.”

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<sup>11</sup> CODIS is a national database that stores the genetic profiles of sexual assault offenders onto a software program.

### Arguments in Opposition

Opponents argue: “If enacted, AB 2481 would require crime laboratories analyze all sexual assault kits received prior to January 1, 2016, regardless of whether the DNA is necessary to a prosecution, regardless of whether the suspect has already pled guilty and regardless of whether there are items of evidence from other types of cases, the results of which are necessary for a successful prosecution, that will not be tested because the lab’s resources will be devoted to testing of sexual assault evidence. This bill, if passed, will be an unfunded mandate, the cost of which will need to be reimbursed by the state.

“How crime laboratories allocate limited resources should not be micromanaged by the state legislature. While the testing of DNA evidence from sexual assault cases is important, it is not more important than DNA testing on items of evidence collected in the investigation of other types of violent crime such as homicides, kidnapping or assaults.”

“This is a poorly conceived bill. Crime laboratories in this state should be permitted to prioritize their work with the guidance from prosecutors. The state legislature should not be in the business of prioritizing a crime lab’s workload. Additionally, the state should not be throwing money away to ensure evidence from one type of case is tested first regardless of the import of the evidence to a criminal prosecution.”

### **Comments:**

To reinforce his assertion on the need for this bill, the author points to a recent [statewide report](#)<sup>12</sup> performed by the California DOJ, which amongst other things, highlights a backlog of nearly 14,000 untested Sexual Assault Evidence kits across the state of California. AB 2481 aims to eliminate this backlog of untested sexual assault kits in the state of California.

By mandating the testing of sexual assault kits, this bill presents the opportunity to bring resolution and justice for sexual assault victim-survivors and hopefully prevent future sexual assault crimes by serial sex offenders.

What is still unknown at this point are the associated costs that come with testing the thousands of forensic evidence kits that are scattered throughout the state.<sup>13</sup> Even if testing costs are deemed reasonable, given that virtually all government entities in the wake of the COVID pandemic are likely facing budget shortfalls over the next few years, it is unclear if the legislature and Governor will make forensic evidence testing a priority to be addressed by the state’s General Fund in future budget cycles.

Notwithstanding this missing information, DNA undoubtedly remains a useful tool that helps law enforcement to solve crimes and convict criminals.

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<sup>12</sup> This report summarizes the data generated by a one-time audit of the untested SAE kits in the possession of California’s LEAs, crime laboratories, medical facilities and others, as mandated by AB 3118 (Chiu, 2018).

<sup>13</sup> The Assembly Appropriations Committee will have likely produced an initial cost estimate for implementation of this bill by the date of the League’s Public Safety Policy Committee meeting.