

Assembly Bill No. 322

Passed the Assembly September 7, 2011

Chief Clerk of the Assembly

Passed the Senate September 6, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add and repeal Section 680.1 of the Penal Code, relating to forensic evidence.

LEGISLATIVE COUNSEL'S DIGEST

AB 322, Portantino. Forensic evidence: rape kits.

Existing law, the Sexual Assault Victims' DNA Bill of Rights, authorizes a law enforcement agency investigating certain felony sex offenses, upon the request of the victim, and subject to the commitment of resources, to inform the victim whether or not a DNA profile was obtained from the testing of the rape kit evidence or other crime scene evidence from the case, whether or not that information has been entered into the Department of Justice Data Bank of case evidence, and whether or not there is a match between the DNA profile 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, as specified. Existing law also requires that the victim be given written notification by the law enforcement agency if the law enforcement agency elects not to perform DNA testing of the rape kit evidence or other crime scene evidence, or intends to destroy or dispose of the rape kit evidence or other crime scene evidence prior to the expiration of the statute of limitations, as specified.

The bill would establish a pilot program in 10 counties, commencing July 1, 2012, in which all rape kits collected in those counties after that date will be processed by the Department of Justice in department laboratories. The pilot program would be operative until July 1, 2015, or the date when all rape kits collected in the counties participating in the pilot project, during the period of July 1, 2012, through December 31, 2014, are counted, whichever comes first. The department would be required to test every rape kit collected by a pilot project county during the period of the pilot project. The bill would provide that these provisions would be repealed on January 1, 2016.

By imposing additional burdens on local law enforcement entities, this bill would impose a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 680.1 is added to the Penal Code, to read:

680.1. (a) The Department of Justice shall establish a pilot project, commencing July 1, 2012, in 10 California counties to open and test all rape kits collected in those counties after the start of the pilot project.

(b) The 10 counties chosen for inclusion in this pilot project are counties with an arrest rate of less than 12 percent for the crime of forcible rape as reported to the Attorney General's office for the reporting periods 2007 to 2009, inclusive, and as determined by adding the number of arrests for the crime of forcible rape reported in the county for this three-year period and dividing this amount by the number of forcible rapes reported during this time period.

(c) The following counties shall be included in the pilot project based upon 2007 to 2009, inclusive, statistics reported to the Attorney General's office for the crime of forcible rape:

- (1) Alpine County.
- (2) Amador County.
- (3) Colusa County.
- (4) El Dorado County.
- (5) Napa County.
- (6) Nevada County.
- (7) Plumas County.
- (8) Shasta County.
- (9) Tehama County.
- (10) Tuolumne County.

(d) The Department of Justice shall, in cooperation with each pilot project county, establish a process regarding the collection, storage, and testing of rape kits collected in the pilot project

counties. It is the intent of the Legislature that all rape kits that are collected in a pilot program county after a date established by the department, shall be sent to a forensic laboratory of the department for analysis and testing. The department shall test every rape kit collected by a pilot project county during the period of the pilot project.

(e) The purpose of this pilot project is to determine whether counties with the lowest arrest rates in California for the crime of forcible rape can bring justice to victims by increasing their arrest rates for this violent crime by having all rape kits that are collected in the county, during the period of the pilot project, tested for evidence of crime. The effectiveness of this pilot project shall be measured by examining county statistics submitted to the Attorney General's office pursuant to existing law that requires the reporting of the number of forcible rapes committed in that county and the number of arrests for forcible rape committed in that county.

(f) The pilot project shall become inoperative on the earlier date of either July 1, 2015, or the date when all rape kits collected in the counties participating in the pilot project during the period of July 1, 2012, to December 31, 2014, inclusive, are counted. The department shall test all rape kits collected by a pilot project county during the pilot project.

(g) This section shall be repealed on January 1, 2016.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2011

Governor