

Assembly Bill No. 1744

CHAPTER 857

An act to amend Section 13823.12 of, and to add Section 13823.14 to, the Penal Code, relating to sexual assault.

[Approved by Governor September 30, 2016. Filed with
Secretary of State September 30, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1744, Cooper. Sexual assault forensic medical evidence kit.

Existing law requires the Office of Emergency Services to establish a protocol for the examination and treatment of victims of sexual assault and attempted sexual assault, including child molestation, and the collection and preservation of related evidence. Existing law provides failure to comply with this protocol does not constitute grounds to exclude evidence and prohibits a judge from instructing the trier of fact in a case that less weight be given to the evidence based on failure to comply. Existing law also establishes one hospital-based training center to train medical personnel on how to perform medical evidentiary examinations for victims of child abuse or neglect, sexual assault, and other similar crimes.

This bill would require the Department of Justice's Bureau of Forensic Services, the California Association of Crime Laboratory Directors, and the California Association of Criminalists to work collaboratively with public crime laboratories, in conjunction with the California Clinical Forensic Medical Training Center, to develop a standardized sexual assault forensic medical evidence kit, as specified, to be used by all California jurisdictions. The bill would encourage those entities to collaborate and establish the basic components for a kit by January 30, 2018, and would require guidelines pertaining to the use of the kit's components to be distributed throughout the state by May 30, 2019. The bill would require every local and state agency to be responsible for its own costs in purchasing a kit. The bill would also provide that failure to use a kit does not constitute grounds to exclude evidence and prohibits a judge from instructing the trier of fact in a case that less weight be given to the evidence based on failure to comply.

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

SECTION 1. Section 13823.12 of the Penal Code is amended to read:

13823.12. Failure to comply fully with Section 13823.11 or with the protocol or guidelines, or to utilize the form established by the Office of Emergency Services or the standardized sexual assault forensic medical evidence kit described in Section 13823.14, shall not constitute grounds to

exclude evidence, nor shall the court instruct or comment to the trier of fact in any case that less weight may be given to the evidence based on the failure to comply.

SEC. 2. Section 13823.14 is added to the Penal Code, to read:

13823.14. (a) The Department of Justice's Bureau of Forensic Services, the California Association of Crime Laboratory Directors, and the California Association of Criminalists shall provide leadership and work collaboratively with public crime laboratories to develop a standardized sexual assault forensic medical evidence kit for use by all California jurisdictions. The packaging and appearance of the kit may vary, but the kit shall contain a minimum number of basic components and also clearly permit swabs or representative evidence samples to be earmarked for a rapid turnaround DNA program, as defined in subparagraph (E) of paragraph (7) of subdivision (b) of Section 680, when applicable.

(b) The collaboration to establish the basic components for a standardized sexual assault forensic medical evidence kit should be completed by January 30, 2018, and shall be conducted in conjunction with the California Clinical Forensic Medical Training Center, authorized by Section 13823.93, that is responsible for the development of sexual assault forensic medical examination procedures and sexual assault standardized forensic medical report forms and for providing training programs.

(c) On or before May 30, 2019, the California Clinical Forensic Medical Training Center, in coordination with the Department of Justice's Bureau of Forensic Services, the California Association of Crime Laboratory Directors, and the California Association of Criminalists, shall issue guidelines pertaining to the use of the standardized sexual assault kit components throughout the state.

(d) Every local and state agency shall remain responsible for its own costs in purchasing a standardized sexual assault forensic medical evidence kit.