

## Assembly Bill No. 807

### CHAPTER 846

An act to amend Sections 264.2 and 679.04 of the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 9, 1997. Filed  
with Secretary of State October 10, 1997.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 807, Scott. Sexual assault: victim's support.

(1) Existing law requires a law enforcement officer, or his or her agency, to immediately notify the local rape victim counseling center whenever a victim of an alleged violation of specified sex offenses is transported to a hospital for examination, and the victim approves of that notification.

This bill instead would require the law enforcement officer, or his or her agency, to immediately notify the local rape victim counseling center whenever a victim of an alleged violation of specified sex offenses is transported to a hospital for any medical evidentiary or physical examination. The bill would also provide that the victim shall have the right to have a sexual assault victim counselor and at least one other support person of the victim's choosing present at any medical evidentiary or physical examination, and that notice of this right shall be provided orally or in writing to the victim by the attending medical provider prior to the commencement of any initial medical evidentiary or physical examination arising out of a sexual assault.

(2) Existing law provides that a victim of sexual assault or spousal rape has the right to have a sexual assault victim counselor and at least one additional support person chosen by the victim present at any evidentiary, medical, or physical examination or interview by law enforcement authorities or defense attorneys.

This bill would revise the above provision to provide that the victim has a right to have victim advocates present at any interview by law enforcement authorities, district attorneys, or defense attorneys. However, this bill would specify that an initial investigation by law enforcement at the crime scene to determine whether a crime has been committed and the identity of the suspects shall not constitute a law enforcement interview. The bill would also provide that prior to the commencement of any initial law enforcement interview or district attorney contact, the victim shall be notified orally or in writing by the attending law enforcement authority or district attorney that the victim has the right to have

victim advocates, as well as a support person of the victim's choosing, present at the interview or contact. This bill would further provide that this notification requirement shall also apply to investigators and agents employed or retained by law enforcement or the district attorney. By imposing increased duties on local criminal justice systems that are equivalent to those imposed by the establishment of a new crime, this bill would impose a state-mandated local program.

(3) 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.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 264.2 of the Penal Code is amended to read:

264.2. (a) Whenever there is an alleged violation of Section 261, 261.5, 262, 286, 288a, or 289, the law enforcement officer assigned to the case shall immediately provide the victim of the crime with the "Victims of Domestic Violence" card, as specified in paragraph (5) of subdivision (i) of Section 13701 of the Penal Code.

(b) (1) The law enforcement officer, or his or her agency, shall immediately notify the local rape victim counseling center whenever a victim of an alleged violation of Section 261, 261.5, 262, 286, 288a, or 289 is transported to a hospital for any medical evidentiary or physical examination. The victim shall have the right to have a sexual assault victim counselor, as defined in Section 1035.2 of the Evidence Code, and at least one other support person of the victim's choosing present at any medical evidentiary or physical examination.

(2) Prior to the commencement of any initial medical evidentiary or physical examination arising out of a sexual assault, a victim shall be notified orally or in writing by the attending medical provider that the victim has the right to have present a sexual assault victim counselor and at least one other support person of the victim's choosing.

(3) The hospital may verify with the law enforcement officer, or his or her agency, whether the local rape victim counseling center has been notified, upon the approval of the victim.

SEC. 2. Section 679.04 of the Penal Code is amended to read:

679.04. (a) A victim of sexual assault, as defined in subdivisions (a) and (b) of Section 11165.1, or spousal rape has the right to have victim advocates and at least one other support person of the victim's choosing present at any interview by law enforcement authorities, district attorneys, or defense attorneys. As used in this section,



“victim advocate” means a sexual assault victim counselor, as defined in Section 1035.2 of the Evidence Code, or a victim advocate working in a center established under Article 2 (commencing with Section 13835) of Chapter 4 of Title 6 of Part 4.

(b) Prior to the commencement of any initial law enforcement interview or district attorney contact pertaining to any criminal action arising out of a sexual assault, a victim of sexual assault or spousal rape shall be notified orally or in writing by the attending law enforcement authority or district attorney that the victim has the right to have victim advocates, as well as a support person of the victim’s choosing, present at the interview or contact. This subdivision applies to investigators and agents employed or retained by law enforcement or the district attorney.

(c) An initial investigation by law enforcement at the crime scene to determine whether a crime has been committed and the identity of the suspects shall not constitute a law enforcement interview for purposes of this section.

SEC. 3. 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.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The failure to provide notice to a victim of sexual assault that he or she has a right to have a certified sexual assault advocate as well as a support person of the victim’s choosing present at specified examinations, interviews, or attorney contacts relating to the sexual assault has led to many unfortunate situations. In order to remedy this situation as soon as possible, it is necessary that this act go into immediate effect.

