
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: AB 640 **Hearing Date:** July 2, 2019
Author: Frazier
Version: February 15, 2019
Urgency: No **Fiscal:** Yes
Consultant: JK

Subject: *Sex Crimes: Investigation and Prosecution*

HISTORY

Source: Author

Prior Legislation: AB 2124 (Rubio), 2018, failed passage in Senate Appropriations
AB 229 (Baker), 2017, failed passage in Senate Appropriations
AB 2202 (Baker), 2016, failed passage in Assembly Appropriations
AB 1731 (Atkins), 2016, failed passage in Senate Appropriations
SB 1165 (Mitchell), Ch. 713, Stats. 2014

Support: The Arc and United Cerebral Palsy California Collaboration; California District Attorneys Association; California Family Resource Association; The Child Abuse Prevention Center; Disability Rights California; Riverside Sheriffs Association

Opposition: None known

Assembly Floor Vote: 75 - 0

PURPOSE

The purpose of this bill is to require the training course developed by advisory committee within the Office of Emergency Services (OES) for district attorneys on the investigation and prosecution of sexual assault cases, child sexual exploitation cases, and child sexual abuse, to also include training on the investigation and prosecution of sexual abuse cases involving victims with developmental disabilities.

Existing law requires the OES to establish an advisory committee which shall develop a course of training for district attorneys in the investigation and prosecution of sexual assault cases, child sexual exploitation cases, and child sexual abuse cases, and specifies that the courses shall include training in the unique emotional trauma experienced by victims of these crimes. (Pen. Code, § 13836.)

Existing law states that it is the intent of the Legislature to encourage the establishment of sex crime prosecution units, which shall include, but not be limited to, child sexual exploitation and child sexual abuse cases, in district attorneys' offices throughout the state. (Pen. Code, § 13836.)

Existing law requires the OES advisory committee to consist of 11 members; five shall be appointed by the Director of Emergency Services, and shall include three district attorneys or assistant or deputy district attorneys, one representative of a city police department or a sheriff or

a representative of a sheriff's department, and one public defender or assistant or deputy public defender of a county; six shall be public members appointed by the Commission on the Status of Women and Girls, and shall include one representative of a rape crisis center, and one medical professional experienced in dealing with sexual assault trauma victims. (Pen. Code § 13836.1.)

Existing law specifies that members of the OES advisory committee shall receive no compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred by them in the performance of their duties. (Pen. Code § 13836.1.)

Existing law states that OES shall reimburse each county for the costs of salaries and transportation to the extent necessary to permit up to 10 percent of the staff of the district attorney to complete the course of training in investigation and prosecution of sexual assault cases, child sexual exploitation cases, and child sexual abuse cases; specifies that the training shall be offered at least twice each year in both northern and southern California. (Pen. Code § 13836.2.)

This bill adds sexual abuse cases involving victims with developmental disabilities to training for district attorneys.

COMMENTS

1. Need for This Bill

According to the author:

AB 640 addresses sexual assault of those with Intellectual & Developmental Disabilities for what it is, a silent epidemic. National statistics show that 1 in 5 women without disabilities are sexually assaulted. The rate of violent victimization of people with disabilities is three times higher than an individual without disabilities. With nearly 350,000 consumers of regional center services and an estimate of 624,479 Californians living with a developmental disability and rising because of autism diagnosis, it is imperative California is strategic, responsive and effective in caring for a population that has difficulties conveying their pain and suffering when a life-altering trauma occurs.

AB 640 expands on an existing advisory council under the Office of Emergency Services as a response to the lives damaged by abuse and is critical to ensuring the protection and dignity of individuals with developmental disabilities.

2. Victimization of Persons with Disabilities

The Bureau of Justice Statistics reported that persons whom the survey classified as having disabilities had a higher rate of violent victimization (40.4 per 1,000 persons age 12 or older) than persons without disabilities (17.7 per 1,000). Furthermore, persons who the survey considered to have a cognitive disability experienced 76.0 violent victimizations per 1,000 persons age 12 or older, the highest rate among persons with any disability.¹

According to an investigative report by National Public Radio (NPR), people with intellectual disabilities are sexually assaulted at a rate seven times higher than those without disabilities.

¹ <https://www.bjs.gov/content/pub/pdf/cv17.pdf>

According to that report, there is reason to believe that predators target people with intellectual disabilities because they know they are easily manipulated and will have difficulty testifying later. As a result, these crimes often go unrecognized, unprosecuted and unpunished.²

3. OES Training on Child Sexual Abuse, Exploitation, and Assault Cases

The State Advisory Committee on Sexual Assault Victim Services was established by Penal Code Section 13836. It provides oversight to the Rape Crisis, Child Sexual Abuse, and Child Sexual Exploitation and Intervention Programs at OES.³ The same penal code section made the advisory committee responsible for developing a course of training in the investigation and prosecution of sexual assault cases, child sexual exploitation cases, and child sexual abuse. Existing law requires the State Advisory Committee to offer this training at least twice per year in both Northern and Southern California. This bill would add an additional topic to that training, specific to the investigation and prosecution of sexual assault cases pertaining to victims with developmental disabilities.

4. Argument in Support

According to Disability Rights California:

This bill would require that the advisory committee established by the Office of Emergency Services to develop a training course for district attorneys for the investigation of sexual assault cases also cover the investigation and prosecution of sexual abuse cases involving victims with developmental disabilities.

People with developmental disabilities are at disproportionately high risk of abuse, neglect, and criminal victimization. Experts conservatively estimate that people with disabilities are at least four times more likely to be victimized than people without disabilities. Individuals with an intellectual impairment are at the highest risk of victimization. The rate of sexual assault is two to ten times higher for people with disabilities when compared to people without disabilities.

Law enforcement and others in the abuse response system often lack the training and skills to interact with and interview individuals with disabilities. There are often critical delays in the response of investigators to reports of abuse, neglect, and criminal victimization. Criminal investigations are not thorough and often produce insufficient evidence for criminal prosecution. Disability-related bias and stigma may include assumptions that individuals with disabilities are unreliable or not credible and will not make good witnesses, resulting in failure to timely and thoroughly interview the victim or witnesses with disabilities, if at all. Many investigations into instances of abuse and neglect go on for months or years, and some are never completed. Cases that make it into the criminal justice system are not rigorously prosecuted; assailants are frequently given lighter sentences or plead to lesser crimes.

-- END --

² <https://www.npr.org/2018/01/08/570224090/the-sexual-assault-epidemic-no-one-talks-about>

³ <https://www.caloes.ca.gov/for-governments-tribal/grants-funding/criminal-justice-emergency-management-victim-services-grant-programs/task-forces-committee-councils>