

From: [Malinda Wheeler](#)
To: [Trujillo, Dolores@DCA](#); [Fagan, Mary@DCA](#); [Wynne, Patricia@DCA](#); [Lollar, David@DCA](#); [Dominguez, Jovita@DCA](#); [Granowitz, Vicki@DCA](#); [Clark, Marissa@DCA](#); [Melby, Loretta@DCA](#); [Lenerd, Evon@DCA](#); [Feusahrens, McCaulie@DCA](#)
Subject: BRN Board Meeting tomorrow June 29/23- Opposition to AB 1028 (McKinnor)
Date: Wednesday, June 28, 2023 1:44:14 PM
Attachments:

[CALSAFE Letter Oppose AB1028 to Honorable Senator Wahab signed 6.22.23.pdf](#)
[AB1028.pptx](#)

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Dear BRN Board Members,

I have been a Registered Nurse and Nurse Practitioner for 42 years. I am the current President of the California Sexual Assault Forensic Examiner Association (CalSAFE), and an active nurse examiner- still taking call.

CalSAFE represents the 48 forensic medical exam teams in California and these teams are comprised of primarily RNs and NPs who perform the majority of the work caring for sexual assault victims and domestic violence victims in California. We are the forensic nursing experts in caring for victims of violence and we OPPOSE AB1028 as written. California health care professionals have worked hard for many years to protect victims of violence by implementing mandated reporting and now this bill attempts to reverse the years of progress. There are many unintended consequences to this bill as it is written. Fatality of domestic violence is on the rise, especially in pregnant women.

We have had numerous discussions and meeting with Futures without Violence, the main sponsor and author of the bill, to amend the language and minimize any unintended consequences. Despite our best efforts we have not come to any agreement. We are the nursing experts in this arena and they have no medical or nursing experts that they are working with that understand the clinical perspective those that serve California. Please support your forensic nursing experts to better guide the amendments to PC 11160. Please see our attached PowerPoint for recommended amendments, and the letter we submitted to the Senate Public Safety Committee.

Respectfully,



**Malinda Wheeler RN, MN,
FNP**

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Begin forwarded message:

From: Casey Gwinn <Casey@allianceforhope.com>

Subject: Opposition to AB 1028 (McKinnor)

Date: June 14, 2023 at 5:01:30 PM PDT

To: "Dolores.Trujillo@dca.ca.gov" <Dolores.Trujillo@dca.ca.gov>,
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Dear BRN Members,

If any of you would be willing to hear from the opposition coalition to AB 1028, we would love to provide information to you. At your last meeting, you were told in a written report there was no formal opposition to AB 1028.

The BRN staff was told by the author's office there was no formal opposition. The author knew of our opposition coalition in February 2023. The staff then told the BRN Members there was no opposition filed. This was not accurate. There is a large coalition working to defeat AB 1028. We defeated it last year in the Senate and hope to defeat it this year. The proponents promised to work with us on a compromise to ending all reporting even in high risk, serious injury domestic violence cases. They did keep their promise. The bill is almost identical to last year's bill and they are pushing it forward again.

Thank you for your consideration.

With Great HOPE,

Casey

Casey Gwinn, Esq.

He/Him/His

President
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Elected San Diego City Attorney (1996-2004)
Former Chair, California Attorney General's Task Force on Domestic Violence
Co-Sponsor of the California Suspicious Injury Reporting Law (1994)
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AB 1028
MCKINNOR 2023-24



CHANGE THE LANGUAGE

- **“Mandatory reporting”**
 - Misrepresents the intention
 - Infers that the patient is being reported
 - b/c the report goes to police assumes that it is for criminal prosecution only
 - Health care is not respecting patient autonomy
- **“Medical Documentation”**
 - Better representation the purpose
 - Documents harms done to patient
 - Can be used for criminal or civil matters
 - Health care provider is the objective observer

RECONSIDER THE REPEAL OF PC 11160

OPT IN – CURRENT PROPOSED LANGUAGE

- Complete repeal of PC 11160 creates the single obligation for healthcare to provide phone number for advocacy
- No process in place for those that **WANT** to report or that have already reported to police, and want medical documentation.
- Hospitals w/o a requirement to comply will do a little as possible.
- No access the VOC resources w/o police report or dispatch Number #
- MANY MANY unintended consequences

OPT OUT – PROPOSED AMENDMENTS

- Use the **Non Investigative Report (NIR)** model where those patients **with Decision Making Capacity** can have the same Medical documentation that can be held in the medical record until the patient decides if they want to report or not.
- The documentation remains available to the patient if they decide they want to report in the future.
- Police report is made, and pt has **NO** obligation to interact with police.
- Will have access to VOC resources.

PROPOSED AMENDMENTS

- 1) Provide IN-PERSON advocacy
- 2) Harden the language around primary care/ OP clinical settings. Where a patient is NOT seeking care for DV injuries to make a referral to advocacy.
- 3) *Create the NIR report for those patients who are undecided or DO NOT want to report to law enforcement.*



IN-PERSON ADVOCACY

Proven to be the most effective way of engaging patients in supportive service and IS the standard in sexual assault AND substance use disorder

Will cost MONEY, \$\$ but we need to LEVEL UP, Not requiring advocacy AND removing the medical documentation requirement will turn back the clock to 1996

AUTONOMY comes with privilege, it requires that you have choices. In person advocacy can bring patient/victims information and **CHOICES**.

HARDENING THE LANGUAGE IN OUTPATIENT AND PRIMARY CARE SETTINGS

- Preserves the Health Care Provider patient relationship. Remove the obligation from the PMD
- Clarifies for patients where they can safely go to discuss DV issues.
- Includes referral– ideally a warm- hand-off to advocacy services
- Protects the ACUTE CARE settings like the ED where the most highly injured patients present who are at the highest risk of DV homicide to be able to report with the OPT OUT option (NIR)

THE NON INVESTIGATIVE REPORT

Has been available to ADULT SEXUAL ASSAULT patients since 2017.

6% of patients across the state choose this option (OPT OUT)

Patients sign and consent that they understand the consequences and that the report will be available to them in the future if they change their mind.

Law enforcement agrees that they will not have access to the patient until the decide they want to report.

Health care providers/hospitals continue to have compliance standards/ including provision of inperson advocacy.



* Trauma Informed Patient Care * Evidence based * Multi-disciplinary Team Member * State and Local Collaborative Partner

June 23, 2023

The Honorable Senator, Aisha Wahab, Chair, Senate Public Safety Committee,
Legislative Office Building, 1020 N. Street, Room 545, Sacramento, CA 95814

RE: **Assembly Bill 1028 (McKinnor)** Reporting of crimes: Mandated reporters
Cal SAFE Position: **OPPOSE**

Dear Senator Wahab:

The California Sexual Assault Forensic Examiners Association (Cal SAFE) strongly **opposes** Assembly Bill 1028, as written. **We agree that PC 11160-1163.6 needs to be amended but the proposed language is an over-reach that creates dangerous unintended consequences. The bill language was developed without consultation or considerations for PC 13823.5-13823.11 which defines the standard of care for the medical evidentiary treatment of victims of Sexual Assault and gives authority to the California Clinical Forensic Medical Training Center (CCFMTC) to establish best practices for the care of Sexual Assault patients.** Cal SAFE met with the bill authors and sponsors to educate, explain unintended consequences, and propose amended language.

Cal SAFE represents the 49 sexual assault forensic examination (SAFE) teams in California. Cal SAFE membership is made up of 200 healthcare providers (Medical Doctors, Advance Practice Providers, and Registered Nurses) working everyday with survivors of domestic violence (DV) and adult and child sexual assault (SA). Our teams provide 14,000 adult and pediatric sexual assault forensic exams and over 4000 domestic violence exams annually. Our members understand first-hand the challenges of caring for this vulnerable population across the spectrum of healthcare settings, from psychological abuse reported to a primary care provider to the life-threatening injuries requiring the care of a trauma center. Cal SAFE sees the value of documenting injuries a patient has sustained at the hands of their abusers, and the benefit of health care reporting to support and protect patients, who choose to make a report at the time of care. Our members are dedicated to providing the highest standard of medical forensic care and ensuring that patients are supported, **believed**, and safe.

AB1028 was initiated to address the needs of Domestic/Intimate Partner Violence (DV/IPV) survivors, who DO NOT WANT to report to law enforcement at the time of care; however, it



does not protect survivors, who **DO WANT** to make a report to law enforcement. Often the most injured patients, brought to emergency departments **WANT** and **NEED** the support of health care and advocacy to make or complete a report to law enforcement. AB 1028, if passed, will eliminate any **requirement** for health care to assist a victim to report to law enforcement, and instead will require only that healthcare provider give a survivor of IPV a phone number to a DV advocacy agency. In Alameda County, only 4% **of** domestic violence survivors, who received Family Justice Center (FJC) contact information in the emergency room setting, ever made contact with the FJC. In contrast, when **IN-PERSON** advocacy was provided at the time of care, the survivor's connection to advocacy services and support increased to 48% - a significant increase that quantitatively and qualitatively **improves survivor** outcomes. Direct-to-advocacy (a.k.a. "warm-handoff") referrals, unlike traditional referrals, **improve** a survivor's chance of reaching advocacy **services** and also greatly reduce care inequities experienced by vulnerable and marginalized populations.

Cal SAFE supports the **OPT IN** approach to mandatory reporting that is suggested in this bill, since it asserts guaranteed autonomy for survivors. However, without mandating **IN-PERSON advocacy** to guide these patients in crisis through their choices and legal options, patients will be left on their own to engage with systems that they may already feel to overwhelmed or unprepared to navigate without confidential, trauma-informed guidance. Cal SAFE proposes to amend the language to 1) **require IN-PERSON advocacy** for those survivors at highest risk for DV homicide and 2) maintain health care mandatory reporting to law enforcement for survivors, who seek care in urgent or emergency health care settings for IPV injuries, inclusive of all forms of serious life-threatening injuries, not just gun related injuries.

Since 2017, sexual assault victims have had the option of the Non-Investigative Report (NIR), created for SA victims, who are undecided at the time of care, whether to report to law enforcement. This allows the victim to have **in-person advocacy** and medical evidentiary exam to capture time sensitive evidence, and to postpone making the law enforcement report until which time the patient is ready. The **OPT-OUT** NIR protocol has been used by 6% of SA victims annually across the state. The NIR solution has been effectively utilized and allows patients the autonomy and time to make a considered decision. A similar NIR report protocol for DV would be an important option for patients, who seek critical medical/forensic documentation after assault and the space to consider whether they want to report to law enforcement.

50% of all DV homicides are committed with guns. Limiting mandated reporting to gun-related injuries, as proposed in AB 1028, will eliminate the mandate for health care to report all other forms of DV – regardless of severity. DV health care mandatory reporting developed because of the growing number of domestic violence homicides, which are a leading cause of death for



pregnant women in the U.S., with Black women having a substantially higher risk of being killed. Kentucky eliminated health care mandatory reporting five years ago and has since seen a 63% increase in DV homicides. Removing the healthcare mandated report without providing direct-to-advocacy (warm hand-off) referrals will increase the likelihood of DV homicide events locally.

Cal SAFE realizes there are significant improvements that can be made to healthcare practitioner mandated reporting but opposes the removal of it, without thoughtful dialogue that involves required disciplines in the discussion. More than 14,000 pediatric and adult medical evidentiary exams are completed in California every year. To the best of our knowledge, California qualified health care professionals - who are experts in caring for patients that survive domestic/intimate partner violence and sexual assault – have not been brought into that discussion.

Cal SAFE respectfully requests that AB 1028 does not pass the California State Senate Committee on Public Safety as written. This will give the authors, the sponsors, health care providers, including those providing medical evidentiary care, and other community agencies time for much needed dialogue. Cal SAFE values the continued partnership and willingness to be a part of that process.

If you have any questions, please do not hesitate to contact Cal SAFE using the contact information below.

Respectfully,

Malinda Wheeler

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