

SENATE BILL No. 272

By Committee on Federal and State Affairs

2-23

1 AN ACT concerning sexual assault evidence collection; requiring such
2 collection procedures to include a urinalysis test to determine the
3 presence of controlled substances that may have been used to commit
4 the alleged sexual assault; amending K.S.A. 65-448 and repealing the
5 existing section.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 65-448 is hereby amended to read as follows: 65-
9 448. (a) Upon the request of any law enforcement officer and with the
10 written consent of the reported victim, or upon the request of the victim,
11 any physician, a licensed physician assistant, who has been specially
12 trained in performing sexual assault evidence collection, or a registered
13 professional nurse, who has been specially trained in performing sexual
14 assault evidence collection, on call or on duty at a medical care facility of
15 this state, as defined by K.S.A. 65-425(h), and amendments thereto, shall
16 examine persons who may be victims of sexual offenses cognizable as
17 violations of K.S.A. 2020 Supp. 21-5503, 21-5504, 21-5506 or 21-5604,
18 and amendments thereto, using Kansas bureau of investigation sexual
19 assault evidence collection kits or similar kits approved by the Kansas
20 bureau of investigation, for the purposes of gathering evidence of any such
21 crime. If an examination has taken place solely upon the request of the
22 victim, the medical care facility shall not notify any law enforcement
23 agency without the written consent of the victim, unless otherwise required
24 by law. If the physician, licensed physician assistant or registered
25 professional nurse refuses to perform such physical examination the
26 prosecuting attorney is hereby empowered to seek a mandatory injunction
27 against such physician, licensed physician assistant or registered
28 professional nurse to enforce the provisions of this act. Any refusal by a
29 physician, licensed physician assistant or registered professional nurse to
30 perform an examination which has been requested pursuant to this section
31 shall be reported by the county or district attorney to the state board of
32 healing arts or the board of nursing, whichever is applicable, for
33 appropriate disciplinary action. The department of health and environment,
34 in cooperation with the Kansas bureau of investigation, shall establish
35 procedures for gathering evidence pursuant to this section *and such*
36 *procedures shall include a urinalysis test to determine the presence of*

1 *controlled substances that may have been used to commit the alleged*
2 *sexual assault.* A minor may consent to examination under this section.
3 Such consent is not subject to disaffirmance because of minority, and
4 consent of parent or guardian of the minor is not required for such
5 examination. The hospital or medical facility shall give written notice to
6 the parent or guardian of a minor that such an examination has taken place,
7 except when:

8 (1)– The hospital or medical facility has information that a parent,
9 guardian or family or household member is the subject of a related
10 criminal investigation; or

11 (2)— the physician, licensed physician assistant or registered
12 professional nurse, after consultation with law enforcement, reasonably
13 believes that the child will be harmed if such notice is given.

14 (b) All sexual assault kits collected that are not released to law
15 enforcement shall be sealed by either the sexual assault nurse examiner
16 program or the facility that provided the examination and kept for five
17 years in the evidence storage facilities of the Kansas bureau of
18 investigation. After five years, such kits shall be destroyed by the Kansas
19 bureau of investigation.

20 (c) The fee chargeable for conducting an examination of a victim as
21 herein provided shall be established by the department of health and
22 environment. Such fee, including the cost of the sexual assault evidence
23 collection kit shall be charged to and paid by the county where the alleged
24 offense was committed, and refusal of the victim to report the alleged
25 offense to law enforcement shall not excuse or exempt the county from
26 paying such fee. The fee for conducting an examination of a victim as
27 herein provided shall not be charged or billed to the victim or to the
28 victim's insurance carrier. Such county shall be reimbursed such fee upon
29 the costs being paid by the defendant as court costs assessed pursuant to
30 K.S.A. 28-172a, and amendments thereto.

31 (d) No medical care facility shall incur any civil, administrative or
32 criminal liability as a result of notifying or failing to notify any law
33 enforcement agency if an examination has taken place solely upon the
34 request of the victim and such notification is not otherwise required by
35 law.

36 (e) The Kansas bureau of investigation may adopt rules and
37 regulations as deemed necessary to implement the provisions of this
38 section.

39 (f) *A urinalysis test conducted pursuant to subsection (a) shall only*
40 *be used to determine the presence of controlled substances that may have*
41 *been used to commit the alleged sexual assault and shall not be admissible*
42 *as evidence against the victim in any legal action in any civil, criminal or*
43 *administrative proceeding.*

1 Sec. 2. K.S.A. 65-448 is hereby repealed.

2 Sec. 3. This act shall take effect and be in force from and after its
3 publication in the statute book.