

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 208

By: Floyd

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6 AS INTRODUCED

7 An Act relating to sexual assault victims; creating
8 the Sexual Assault Victims' Rights to Information
9 Act; providing short title; defining terms; declaring
rights of sexual assault victims; providing for
codification; and providing an effective date.

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12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 142C of Title 21, unless there
15 is created a duplication in numbering, reads as follows:

16 This act shall be known and may be cited as the "Sexual Assault
17 Victims' Rights to Information Act".

18 SECTION 2. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 142C-1 of Title 21, unless there
20 is created a duplication in numbering, reads as follows:

21 For the purposes of this act:

22 1. "Forensic laboratory" means a laboratory operated by the
23 state or any unit of municipal, county, city or other local
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1 government that examines physical evidence in criminal matters and
2 provides opinion testimony in a court of law;

3 2. "Law enforcement officer" means any sheriff, police officer,
4 federal law enforcement officer, college campus security officer or
5 any other law enforcement officer whose duty it is to enforce and
6 preserve the public peace or any other first responder;

7 3. "Sexual assault counselor" means any person who is a
8 behavioral health professional, or a victim advocate working in a
9 center that offers sexual assault services certified by the Office
10 of the Attorney General pursuant to Section 18p-6 of Title 74 of the
11 Oklahoma Statutes;

12 4. "Sexual assault forensic evidence" means any human
13 biological specimen collected by a medical provider during a
14 forensic medical examination from an alleged sexual assault victim
15 including, when circumstances indicate the need, a toxicology kit;
16 and

17 5. "Sexual assault victim" or "victim" means any person who is
18 a victim of a sexual assault defined under Section 142.20 of Title
19 21 of the Oklahoma Statutes. The term includes the parent,
20 guardian, spouse or any other person related to the victim by
21 consanguinity or affinity to the second degree, or any other lawful
22 representative of the victim, if the victim is incompetent, deceased
23 or a minor who is unable to consent to counseling services, unless
24 such person is the alleged assailant.

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 142C-2 of Title 21, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The rights provided to sexual assault victims in this act
5 attach whenever a victim consents to a medical evidentiary or
6 physical examination and whenever a victim consents to an interview
7 by law enforcement authorities, district attorneys or defense
8 attorneys.

9 B. A sexual assault victim retains all the rights of this act
10 regardless of whether the victim agrees to participate in the
11 criminal justice system at any time and regardless of whether the
12 victim agrees to receive a medical evidentiary examination to
13 collect sexual assault forensic evidence.

14 SECTION 4. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 142C-3 of Title 21, unless there
16 is created a duplication in numbering, reads as follows:

17 A. A sexual assault victim has the right to consult with a
18 sexual assault counselor during any medical evidentiary or physical
19 examination and during any interview by law enforcement authorities,
20 district attorneys or defense attorneys. A sexual assault victim
21 retains this right even if the victim has waived the right in a
22 previous examination or interview.

23 B. 1. Communications between a sexual assault victim and a
24 sexual assault counselor are confidential and privileged, including

1 information disclosed in the presence of any third persons
2 conducting a medical evidentiary or physical examination or a law
3 enforcement interview.

4 2. The presence of a sexual assault counselor does not operate
5 to defeat any existing privilege otherwise guaranteed by law.

6 C. A waiver of the right to a sexual assault counselor by a
7 sexual assault victim is privileged.

8 SECTION 5. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 142C-4 of Title 21, unless there
10 is created a duplication in numbering, reads as follows:

11 A. No costs incurred by a qualified health care professional,
12 hospital or other emergency medical facility for the medical
13 evidentiary examination and treatment portion of the examination of
14 a sexual assault victim shall be charged directly or indirectly to
15 the victim.

16 B. A female sexual assault victim has the right to receive
17 postcoital contraception at no cost to the victim and within four
18 (4) hours of her arrival at a medical facility.

19 C. Before a medical facility commences a medical evidentiary or
20 physical examination of a sexual assault victim, the medical
21 facility shall inform the victim of the following:

22 1. The rights of the victim pursuant to this act and other
23 relevant law in a document to be developed by the Office of the
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1 Attorney General which shall be signed by the victim of sexual
2 assault to confirm receipt; and

3 2. The right of the victim to consult with a sexual assault
4 counselor, to be summoned by the medical facility before the
5 commencement of the medical evidentiary or physical examination,
6 unless no sexual assault counselor can be summoned in a reasonably
7 timely manner.

8 SECTION 6. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 142C-5 of Title 21, unless there
10 is created a duplication in numbering, reads as follows:

11 A. Before commencing an interview of a sexual assault victim, a
12 law enforcement officer or district attorney shall inform the victim
13 of the following:

14 1. The rights of the victim pursuant to this act and other
15 relevant law in a document to be developed by the Office of the
16 Attorney General, which document shall be signed by the victim of
17 sexual assault to confirm receipt;

18 2. The right of the victim to consult with a sexual assault
19 counselor during any interview by a law enforcement officer,
20 district attorney or defense attorney, to be summoned by the
21 interviewer before the commencement of the interview, unless no
22 sexual assault counselor can be summoned in a reasonably timely
23 manner; and

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1 3. The right of the victim to be interviewed by a law
2 enforcement officer or district attorney of the same gender or
3 opposite gender as the victim, unless no such law enforcement
4 officer or district attorney is reasonably available.

5 B. A law enforcement officer as defined in paragraph 2 of
6 Section 2 of this act shall not, for any reason, discourage a sexual
7 assault victim from receiving a medical evidentiary or physical
8 examination or discourage the victim from reporting to the proper
9 authorities.

10 SECTION 7. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 142C-6 of Title 21, unless there
12 is created a duplication in numbering, reads as follows:

13 A victim retains the right to have counsel present during all
14 stages of any medical examination, investigation or other
15 interaction with representatives from the legal or criminal justice
16 systems within the state as delineated in Sections 5 and 6 of this
17 act. Treatment of the victim should not be affected or altered in
18 any way as a result of the decision of the victim to exercise this
19 right to have counsel present during any interaction with the legal
20 or criminal justice systems within the state.

21 SECTION 8. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 142C-7 of Title 21, unless there
23 is created a duplication in numbering, reads as follows:

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1 A. A sexual assault victim has the right to be informed, upon
2 the request of the victim, of the results of the analysis of the
3 sexual assault forensic evidence of the victim, whether the analysis
4 yielded a DNA profile, and whether the analysis yielded a DNA match,
5 either to the named perpetrator or to a suspect already in the
6 Oklahoma State Bureau of Investigation (OSBI) Combined DNA Index
7 System (CODIS) Database. The victim has the right to receive this
8 information through secure and confidential message in writing from
9 the OSBI. This message must include the contact information of the
10 OSBI so that the victim can contact the Bureau to receive the
11 results and a copy of the police report.

12 B. A defendant or person accused or convicted of a crime
13 against a sexual assault victim shall have no standing to object to
14 any failure to comply with this section, and the failure to provide
15 a right or notice to a sexual assault victim under this section may
16 not be used by a defendant to seek to have the conviction or
17 sentence set aside.

18 C. No sexual assault forensic evidence shall be used:

19 1. To prosecute a sexual assault victim for any misdemeanor
20 crimes or any crime defined under the Uniform Controlled Dangerous
21 Substances Act; or

22 2. As a basis to search for further evidence of any unrelated
23 misdemeanor crimes or any crime under the Uniform Controlled
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1 Dangerous Substances Act that may have been committed by the sexual
2 assault victim.

3 SECTION 9. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 142C-8 of Title 21, unless there
5 is created a duplication in numbering, reads as follows:

6 A. Upon initial interaction with a sexual assault victim, a law
7 enforcement officer or medical provider shall provide the victim
8 with a document to be developed by the Office of the Attorney
9 General that explains the rights of sexual assault victims pursuant
10 to this act and other relevant law in clear language that is
11 comprehensible to a person proficient in English at the fifth-grade
12 level, accessible to persons with visual disabilities and available
13 in all major languages of the state. This document shall include,
14 but is not limited to:

15 1. A clear statement that a sexual assault victim is not
16 required to participate in the criminal justice system or to receive
17 a medical evidentiary or physical examination in order to retain the
18 rights provided by this act and other relevant law;

19 2. Telephone and Internet means of contacting nearby rape
20 crisis centers and sexual assault counselors;

21 3. Forms of law enforcement protection available to the sexual
22 assault victim, including temporary protection orders and the
23 process to obtain such protection;

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1 4. Instructions for requesting the results of the analysis of
2 the sexual assault forensic evidence; and

3 5. State and federal compensation funds for medical and other
4 costs associated with the sexual assault, and information on any
5 municipal, state or federal right to restitution for sexual assault
6 victims in the event of a criminal trial.

7 B. A law enforcement officer shall, upon written or verbal
8 request by a sexual assault victim, furnish a free, complete and
9 unaltered copy of all law enforcement reports concerning the sexual
10 assault, regardless of whether the report has been closed by the law
11 enforcement agency.

12 C. A prosecutor shall, upon written or verbal request by a
13 sexual assault victim, provide:

14 1. Timely notice of any pretrial disposition of the case, as
15 provided under Section 34 of Article II of the Oklahoma
16 Constitution;

17 2. Timely notice of the final disposition of the case,
18 including the conviction, sentence, and place and time of
19 incarceration, as provided under Section 34 of Article II of the
20 Oklahoma Constitution;

21 3. Timely notice of the location of the convicted defendant,
22 including whenever the defendant receives a temporary, provisional
23 or final release from custody, escapes from custody, is moved from a
24 secure facility to a less-secure facility, or reenters custody as

1 provided under Section 34 of Article II of the Oklahoma
2 Constitution; and

3 4. The information of a convicted defendant on a sex offender
4 registry, if any.

5 SECTION 10. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 142C-9 of Title 21, unless there
7 is created a duplication in numbering, reads as follows:

8 A. A sexual assault victim has the right to be reasonably
9 protected from the defendant and persons acting on behalf of the
10 defendant, as provided under Section 142A-2 of Title 21 of the
11 Oklahoma Statutes.

12 B. A sexual assault victim has the right to be free from
13 intimidation, harassment and abuse or shame from any organization,
14 school or agency on which such investigations or charges would
15 reflect negatively, as provided under Section 34 of Article II of
16 the Oklahoma Constitution.

17 C. A sexual assault victim has the right to be treated with
18 fairness and respect for his or her privacy and dignity, as provided
19 under Section 34 of Article II of the Oklahoma Constitution.

20 D. A sexual assault victim has the right to be heard through a
21 victim impact statement at any proceeding involving a postarrest
22 release decision, plea, sentencing, postconviction release decision,
23 or any other proceeding where a right of the victim is at issue, as
24 provided under Section 142A-8 of Title 21 of the Oklahoma Statutes,

1 and the right to provide a sentencing recommendation to the
2 probation department official conducting a presentence
3 investigation, as provided under Section 142A-8 of Title 21 of the
4 Oklahoma Statutes.

5 SECTION 11. This act shall become effective November 1, 2017.

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