

1 **SENATE FLOOR VERSION**

2 February 28, 2017

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 208

By: Floyd of the Senate

and

Munson of the House

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9 An Act relating to sexual assault victims; creating
10 the Sexual Assault Victims' Right to Information Act;
11 providing short title; defining terms; declaring
12 rights of sexual assault victims; declaring right to
13 consult with sexual assault advocate; providing for
14 confidentiality of communications; prohibiting
15 assessment of examination and treatment costs;
16 directing medical facility to inform victims of
17 certain rights; directing law enforcement and
18 district attorneys to inform victims of certain
19 rights; declaring victims' right to counsel during
20 proceedings; declaring victims' right to results and
21 status of forensic evidence; declaring victims' right
22 to retain copy of police report; prohibiting use of
23 forensic evidence for certain purposes; directing law
24 enforcement and medical providers to certain
document; providing for the development of document
outlining rights of victims; stating contents of
document; directing law enforcement agency to provide
certain reports; providing for codification; and
providing an effective date.

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

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

4 This act shall be known and may be cited as the "Sexual Assault
5 Victims' Right to Information Act".

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

9 For the purposes of this act:

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

14 2. "Law enforcement officer" means any sheriff, police officer,
15 peace officer, tribal law enforcement officer, federal law
16 enforcement officer, campus police officer or any other law
17 enforcement officer who has been certified by the Council on Law
18 Enforcement Education and Training and whose duty it is to enforce
19 and preserve the public peace or any other first responder;

20 3. "Sexual assault victims' advocate" means any person who is a
21 behavioral health professional, or a victims' advocate working in a
22 center that offers sexual assault services who has received
23 formalized training in providing trauma-informed direct services to
24 victims of sexual assault;

1 4. "Sexual assault forensic evidence" means any human
2 biological specimen collected by a medical provider during a
3 forensic medical examination from an alleged sexual assault victim
4 including, when circumstances indicate the need, a toxicology kit;
5 and

6 5. "Sexual assault victim" or "victim" means any person who is
7 a victim of a sexual assault defined under Section 142.20 of Title
8 21 of the Oklahoma Statutes. If the victim is incompetent, the term
9 shall include the parent, guardian, spouse or any other person
10 related to the incompetent victim by consanguinity or affinity to
11 the second degree, or any other lawful representative of the
12 incompetent victim.

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

16 A sexual assault victim retains all the rights of this act
17 regardless of whether the victim agrees to participate in the
18 criminal justice system at any time and regardless of whether the
19 victim agrees to receive a medical evidentiary examination to
20 collect sexual assault forensic evidence.

21 SECTION 4. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 142C-3 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 consult with a
2 sexual assault victims' advocate during any medical evidentiary or
3 physical examination and during any interview by law enforcement
4 authorities or district attorneys. A sexual assault victim retains
5 this right even if the victim has waived the right in a previous
6 examination or interview.

7 B. Communications between a sexual assault victim and a sexual
8 assault victims' advocate are confidential and privileged, including
9 information disclosed in the presence of any third persons
10 conducting a medical evidentiary or physical examination or a law
11 enforcement interview.

12 C. The presence of a sexual assault victims' advocate does not
13 operate to defeat any existing privilege otherwise guaranteed by
14 law.

15 D. The waiving of the right to a sexual assault victims'
16 advocate by a sexual assault victim is privileged information.

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

20 A. Costs incurred by a qualified health care professional,
21 hospital or other emergency medical facility for the medical
22 evidentiary examination portion of the examination or treatment of a
23 sexual assault victim and not paid by the Crime Victims Compensation
24 Board shall not be charged directly or indirectly to the victim.

1 B. Before a medical facility commences a medical evidentiary or
2 physical examination of a sexual assault victim, the medical
3 facility shall inform the victim of the following:

4 1. The rights of the victim pursuant to this act and other
5 relevant law in a document to be developed by the Office of the
6 Attorney General; and

7 2. The right of the victim to consult with a sexual assault
8 victims' advocate who is to be requested by the medical facility
9 before the commencement of the medical evidentiary or physical
10 examination, unless no sexual assault victims' advocate is
11 available.

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

15 A. Before commencing an interview of a sexual assault victim, a
16 law enforcement officer or district attorney shall inform the victim
17 of the right to consult with a sexual assault victims' advocate
18 during any interview by a law enforcement officer or district
19 attorney and the right to have a sexual assault victims' advocate
20 requested by the interviewer and present before the commencement of
21 the interview, unless no sexual assault victims' advocate is
22 available.

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1 B. No person, for any reason, shall discourage a sexual assault
2 victim from receiving a medical evidentiary or physical examination
3 or discourage the victim from reporting to the proper authorities.

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

7 If a victim retains counsel, the victim has the right to have
8 such counsel present during all stages of the investigation or other
9 interaction with representatives from the legal or criminal justice
10 systems within the state. Treatment of the victim should not be
11 affected or altered in any way as a result of the decision of the
12 victim to exercise this right to have counsel present during any
13 interaction with the legal or criminal justice systems within the
14 state.

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

18 A. A sexual assault victim has the right to request and receive
19 the results and status of the analysis of the sexual assault
20 forensic evidence of the victim.

21 B. A defendant or person accused or convicted of a crime
22 against a sexual assault victim shall have no standing to object to
23 any failure to comply with this section, and the failure to provide
24 a right or notice to a sexual assault victim under this section may

1 not be used by a defendant to seek to have the conviction or
2 sentence set aside.

3 C. A sexual assault victim has the right to retain a copy of
4 the police report from law enforcement at the conclusion of the
5 criminal case.

6 D. No sexual assault forensic evidence shall be used:

7 1. To prosecute a sexual assault victim for any misdemeanor
8 crimes; or

9 2. As a basis to search for further evidence of any unrelated
10 misdemeanor crimes that may have been committed by the sexual
11 assault victim.

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

15 A. Upon initial interaction with a sexual assault victim, a law
16 enforcement officer or medical provider shall provide the victim
17 with a document to be developed by the Office of the Attorney
18 General that explains the rights of sexual assault victims pursuant
19 to this act and other relevant law. This document shall include,
20 but is not limited to:

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

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

3 B. A law enforcement agency shall, upon written request by a
4 sexual assault victim, furnish a free, complete copy of all law
5 enforcement reports concerning the sexual assault at the conclusion
6 of the criminal case.

7 SECTION 10. This act shall become effective November 1, 2017.

8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
9 February 28, 2017 - DO PASS AS AMENDED

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