

1 ENGROSSED SENATE
2 BILL NO. 208

By: Floyd, Griffin and Pittman
of the Senate

3 and

4 Munson of the House
5
6

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

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

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

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

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

4 For the purposes of this act:

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

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

15 3. "Sexual assault victims' advocate" means any person who is a
16 behavioral health professional, or a victims' advocate working in a
17 center that offers sexual assault services who has received
18 formalized training in providing trauma-informed direct services to
19 victims of sexual assault;

20 4. "Sexual assault forensic evidence" means any human
21 biological specimen collected by a medical provider during a
22 forensic medical examination from an alleged sexual assault victim
23 including, when circumstances indicate the need, a toxicology kit;
24 and

1 5. "Sexual assault victim" or "victim" means any person who is
2 a victim of a sexual assault defined under Section 142.20 of Title
3 21 of the Oklahoma Statutes. If the victim is incompetent, the term
4 shall include the parent, guardian, spouse or any other person
5 related to the incompetent victim by consanguinity or affinity to
6 the second degree, or any other lawful representative of the
7 incompetent victim.

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

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

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

19 A. A sexual assault victim has the right to consult with a
20 sexual assault victims' advocate during any medical evidentiary or
21 physical examination and during any interview by law enforcement
22 authorities or district attorneys. A sexual assault victim retains
23 this right even if the victim has waived the right in a previous
24 examination or interview.

1 B. Communications between a sexual assault victim and a sexual
2 assault victims' advocate are confidential and privileged, including
3 information disclosed in the presence of any third persons
4 conducting a medical evidentiary or physical examination.

5 C. The presence of a sexual assault victims' advocate does not
6 operate to defeat any existing privilege otherwise guaranteed by
7 law.

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

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

13 A. Costs incurred by a qualified health care professional,
14 hospital or other emergency medical facility for the medical
15 evidentiary examination portion of the examination and any
16 medication or medications which are related to the sexual assault
17 and deemed necessary by the health care professional in the
18 treatment of a sexual assault victim shall not be charged directly
19 or indirectly to the victim.

20 B. Before a medical facility commences a medical evidentiary or
21 physical examination of a sexual assault victim, the medical
22 facility shall inform the victim of the following:
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1 1. The rights of the victim pursuant to this act and other
2 relevant law in a document to be developed by the Office of the
3 Attorney General; and

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

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

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

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

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

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

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

15 A. A sexual assault victim has the right to request and receive
16 the results and status of the analysis of the sexual assault
17 forensic evidence of the victim.

18 B. A defendant or person accused or convicted of a crime
19 against a sexual assault victim shall have no standing to object to
20 any failure to comply with this section, and the failure to provide
21 a right or notice to a sexual assault victim under this section may
22 not be used by a defendant to seek to have the conviction or
23 sentence set aside.

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

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

5 1. To prosecute a sexual assault victim for any misdemeanor
6 crimes; or

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

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

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

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

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

