

1 ENGROSSED HOUSE
2 BILL NO. 2546

By: Munson and Moore of the
House

3 and

4 Floyd of the Senate
5
6

7 An Act relating to sexual assault victims; creating
8 the Sexual Assault Victims' Right to Information Act;
9 defining terms; declaring rights of sexual assault
10 victims; declaring right to consult with sexual
11 assault victims' advocate; providing for
12 confidentiality of communications; directing medical
13 facility to inform victims of certain rights;
14 directing law enforcement and district attorneys to
15 inform victims of certain rights; declaring victims'
16 right to counsel during proceedings; declaring
17 victims' right to results and status of forensic
18 evidence; declaring victims' right to retain copy of
19 police report; prohibiting use of forensic evidence
20 for certain purposes; directing law enforcement and
21 medical providers to provide certain document to
22 sexual assault victims; amending 22 O.S. 2011,
23 Section 40.3A, which relates to duties of health care
24 professionals to report certain crimes; directing
health care professionals to inform victims of their
rights; providing for codification; and providing an
effective date.

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

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

1 Sections 1 through 10 of this act shall be known and may be
2 cited as the "Sexual Assault Victims' Right to Information Act".

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

6 For the purposes of this act:

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

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

17 3. "Sexual assault forensic evidence" means any human
18 biological specimen collected by a medical provider during a
19 forensic medical examination from an alleged sexual assault victim
20 including, when circumstances indicate the need, a toxicology kit;

21 4. "Sexual assault victim" or "victim" means any person who is
22 a victim of a sexual assault defined under Section 142.20 of Title
23 21 of the Oklahoma Statutes. If the victim is incompetent, the term
24 shall include the parent, guardian, spouse or any other person

1 related to the incompetent victim by consanguinity or affinity to
2 the second degree, or any other lawful representative of the
3 incompetent victim; and

4 5. "Sexual assault victims' advocate" means any person who is
5 certified as a behavioral health professional, or as a victims'
6 advocate working in a center that offers sexual assault services,
7 who has received formalized training through a government agency,
8 tribal organization, tribal agency or victim services agency in
9 providing trauma-informed direct services to victims of sexual
10 assault.

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

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

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

22 A. A sexual assault victim has the right to consult, either in
23 person or via telemedicine, with a sexual assault victims' advocate
24 before the commencement of any medical evidentiary or physical

1 examination, unless no sexual assault victims' advocate is
2 available, and during any interview by law enforcement authorities
3 or district attorneys. A sexual assault victim retains this right
4 even if the victim has waived the right in a previous examination or
5 interview. Where a sexual assault victims' advocate is not
6 available for an in-person consultation, consultations via
7 telemedicine must be provided.

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

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 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:
23
24

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.
23
24

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 sexual assault victim has the right to retain a copy of
19 the police report as soon as it has been completed.

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

21 1. To prosecute a sexual assault victim for any misdemeanor
22 crimes; or

23

24

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

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

7 Upon initial interaction with a sexual assault victim, a law
8 enforcement officer and medical provider shall provide the victim
9 with victim's rights information and specific documentation that
10 explains the rights of sexual assault victims pursuant to this act
11 and other relevant law prepared and distributed by the Office of the
12 Attorney General.

13 SECTION 10. AMENDATORY 22 O.S. 2011, Section 40.3A, is
14 amended to read as follows:

15 Section 40.3A A. Any physician, surgeon, resident, intern,
16 physician assistant, registered nurse, or any other health care
17 professional examining, attending, or treating the victim of what
18 appears to be or is reported by the victim to be rape, rape by
19 instrumentation or forcible sodomy, as defined in Section 1111,
20 1111.1 or 888 of Title 21 of the Oklahoma Statutes or any form of
21 sexual assault, shall not be required to report any incident of what
22 appears to be or is reported to be such crimes if:

23 1. Committed upon a person who is over the age of eighteen (18)
24 years; and

1 2. The person is not an incapacitated adult.

2 B. Any physician, surgeon, resident, intern, physician
3 assistant, registered nurse, or any other health care professional
4 examining, attending, or treating a victim shall be required to
5 report any incident of what appears to be or is reported to be rape,
6 rape by instrumentation, forcible sodomy or any form of sexual
7 assault, if requested to do so either orally or in writing by the
8 victim and shall be required to inform the victim of the victim's
9 right to have a report made. A requested report of any incident
10 shall be promptly made orally or by telephone to the nearest law
11 enforcement agency in the county wherein the sexual assault occurred
12 or, if the location where the sexual assault occurred is unknown,
13 the report shall be made to the law enforcement agency nearest to
14 the location where the injury is treated.

15 C. In all cases of what appears to be or is reported to be
16 rape, rape by instrumentation, forcible sodomy or any form of sexual
17 assault, the physician, surgeon, resident, intern, physician
18 assistant, registered nurse, or any other health care professional
19 examining, attending, or treating the victim of what appears to be
20 such crimes, shall clearly and legibly document the incident and
21 injuries observed and reported, as well as any treatment provided or
22 prescribed.

23 D. In all cases of what appears to be or is reported to be
24 rape, rape by instrumentation, forcible sodomy or any form of sexual

1 assault, the physician, surgeon, resident, intern, physician
2 assistant, registered nurse, or any other health care professional
3 examining, attending, or treating the victim of what appears to be
4 rape, rape by instrumentation, forcible sodomy or any form of sexual
5 assault, shall inform the victim of the victim's rights, including
6 those rights set forth in the Oklahoma Victim's Rights Act, and
7 shall refer the victim to sexual assault and victim services
8 programs, including providing the victim with twenty-four-hour
9 statewide telephone communication service established by Section
10 18p-5 of Title 74 of the Oklahoma Statutes.

11 E. Every physician, surgeon, resident, intern, physician
12 assistant, registered nurse, or any other health care professional
13 making a report of rape, rape by instrumentation, forcible sodomy or
14 any form of sexual assault pursuant to this section or examining
15 such victims to determine the likelihood of such crimes, and every
16 hospital or related institution in which the victims were examined
17 or treated shall, upon the request of a law enforcement officer
18 conducting a criminal investigation into the case, provide to the
19 officer copies of the results of the examination or copies of the
20 examination on which the report was based, and any other clinical
21 notes, X-rays, photographs, and other previous or current records
22 relevant to the case.

23 SECTION 11. This act shall become effective November 1, 2021.
24

1 Passed the House of Representatives the 9th day of March, 2021.

2
3 _____
4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2021.

6
7
8 _____
9 Presiding Officer of the Senate