

An Act

ENROLLED HOUSE
BILL NO. 2546

By: Munson and Moore of the
House

and

Floyd of the Senate

An Act relating to sexual assault victims; creating the Sexual Assault Victims' Right to Information Act; defining terms; declaring rights of sexual assault victims; declaring right to request to speak with sexual assault victims' advocate; directing law enforcement and district attorneys to allow for the presence of a sexual assault victims' advocate during interviews with victims; prohibiting use of forensic evidence for certain purposes; directing law enforcement and medical providers to provide certain information to sexual assault victims; amending 21 O.S. 2011, Section 142A-3, as amended by Section 1, Chapter 196, O.S.L. 2014 (21 O.S. Supp. 2020, Section 142A-3), which relates to the Oklahoma Victim's Rights Act; updating language; providing additional rights for sexual assault victims; providing for codification; providing for noncodification; and providing an effective date.

SUBJECT: Sexual assault victims

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes, reads as follows:

Sections 1 through 8 of this act shall be known and may be cited as the "Sexual Assault Victims' Right to Information Act".

SECTION 2. 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:

For the purposes of this act:

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

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

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

4. "Sexual assault victims' advocate" means any person who serves as a victims' advocate for a state-certified or tribal sexual assault or sex trafficking program or an advocate working in a center that offers sexual assault services to minors who has received formalized training through a government or tribal agency in providing trauma-informed direct services to victims of sexual assault.

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

In addition to rights enumerated in the Oklahoma Victim's Rights Act, a sexual assault victim retains all the rights of this act regardless of whether the victim agrees to participate in the criminal justice system at any time and regardless of whether the victim agrees to receive a forensic medical examination to collect sexual assault forensic evidence.

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

A sexual assault victim has the right to speak with, either in person, virtually, via audio and visual communication or telephonically, a sexual assault victims' advocate before the commencement of any forensic medical examination. When a sexual assault victims' advocate has been requested, but is not available in person, every effort shall be made to allow the sexual assault victim to speak with a sexual assault victims' advocate either virtually, via audio and visual communication or through telephonic means.

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

A. A law enforcement officer or district attorney shall allow a sexual assault victims' advocate to be present during any interview with the sexual assault victim.

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

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

No sexual assault forensic evidence shall be used:

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

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

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

Upon initial interaction with a sexual assault victim, a law enforcement officer or medical provider shall provide the victim with victims' rights information pursuant to subsection C of Section 142A-3 of Title 21 of the Oklahoma Statutes.

SECTION 8. AMENDATORY 21 O.S. 2011, Section 142A-3, as amended by Section 1, Chapter 196, O.S.L. 2014 (21 O.S. Supp. 2020, Section 142A-3), is amended to read as follows:

Section 142A-3. A. Upon the preliminary investigation of a violent crime, it shall be the duty of the peace officer who interviews the victim of such crime to inform the victim, or a responsible adult if the victim is a minor child or an incompetent person, or the family member who receives death notification in the case of a homicide, in writing, of their rights as a crime victim. Written notification shall consist of handing the victim, responsible adult, if the victim is a minor child or an incompetent person, or family member receiving death notification, a preprinted card or brochure that, at a minimum, includes the following information:

1. A statement that reads, "As a victim of crime, you have certain rights";

2. Telephone and address information for the local District Attorney Victim-Witness Coordinator; and

3. The website address where victims can access a full list of their rights, additional information, and how to apply for crime victim compensation assistance.

B. A victim of domestic abuse has the right to be informed by the first peace officer who interviews the victim of domestic abuse of the twenty-four-hour statewide telephone communication service established by Section 18p-5 of Title 74 of the Oklahoma Statutes and to give notice to the victim of certain rights. The notice shall consist of handing such victim the following statement:

"As a victim of domestic abuse, you have certain rights. These rights are as follows:

1. The right to request that charges be pressed against your assailant;

2. The right to request protection from any harm or threat of harm arising out of your cooperation with law enforcement and prosecution efforts as far as facilities are available and to be provided with information on the level of protection available;

3. The right to be informed of financial assistance and other social services available as a result of being a victim, including information on how to apply for the assistance and services; and

4. The right to file a petition for a protective order or, when the domestic abuse occurs when the court is not open for business, to request an emergency temporary protective order."

C. The victim of ~~rape or forcible sodomy~~ sexual assault, as defined in Section 142.20 of this title, has the right to be informed by the peace officer who interviews the victim of ~~the rape or forcible sodomy~~ sexual assault, or a responsible adult if the victim is a minor child or an incompetent person, of the twenty-four-hour statewide telephone communication service established by the Office of the Attorney General for victims of sexual assault pursuant to Section 18p-5 of Title 74 of the Oklahoma Statutes and to give notice to the victim or such responsible adult of certain rights of the victim. The notice shall consist of handing such victim or responsible adult a written statement in substantially the following form:

"As a victim of ~~the crime of rape or forcible sodomy~~ sexual assault, you have certain rights. These rights are as follows:

1. The right to request that charges be pressed against your assailant;

2. The right to request protection from any harm or threat of harm arising out of your cooperation with law enforcement and prosecution efforts as far as facilities are available and to be provided with information on the level of protection available;

3. The right to be informed of financial assistance and other social services available to victims, including information on how to apply for the assistance and services;

4. The right to a free forensic medical examination; ~~and~~

5. The right to be informed by the district attorney of other victim's rights available pursuant to Section 142A-2 of ~~Title 21 of the Oklahoma Statutes~~ this title;

6. The right to speak with a sexual assault victims' advocate;

7. The right to request and receive the status and results of the analysis of the sexual assault forensic evidence; and

8. The right to request a copy of the police report."

D. Upon the preliminary investigation of a domestic violence crime involving intimate partner violence, the first peace officer who interviews the victim of domestic abuse shall assess the potential for danger by asking a series of questions provided on a lethality assessment form. The lethality assessment form shall include, but not be limited to, the following questions:

1. Has the person ever used a weapon against the victim or threatened the victim with a weapon?

2. Has the person threatened to kill the victim or children of the victim?

3. Does the victim think the person will try to kill the victim?

4. Has the person ever tried to choke the victim?

5. Is the person violently or constantly jealous or does the person control most of the daily activities of the victim?

6. Has the victim left or separated from the person after living together or being married?

7. Is the person unemployed?

8. Has the person ever tried to kill himself or herself?

9. Does the victim have a child that the person knows is not his or her own child?

10. Does the person follow or spy on the victim or leave the victim threatening messages?

11. Is there anything else that worries the victim about his or her safety and if so, what worries the victim?

Based upon the results of the lethality assessment, referrals to shelters, domestic violence intervention programs and other social services shall be provided to the victim.

SECTION 9. This act shall become effective November 1, 2021.

Passed the House of Representatives the 24th day of May, 2021.

Presiding Officer of the House
of Representatives

Passed the Senate the 25th day of May, 2021.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____