

THE HOUSE OF REPRESENTATIVES
Tuesday, February 26, 2008

House Bill No. 2607

HOUSE BILL NO. 2607 - By: PETERSON (PAM) of the House and NICHOLS of the Senate.

An Act relating to sexual assault reporting requirements; amending 10 O.S. 2001, Section 7104, as amended by Section 1, Chapter 53, O.S.L. 2005 (10 O.S. Supp. 2007, Section 7104), which relates to the Oklahoma Child Abuse Reporting and Prevention Act; updating statutory reference; requiring certain crimes be reported according to certain standards; making report of listed crimes nonmandatory under certain circumstances; requiring health care professionals to make a report upon request; requiring notification to victims of the right to make a report; directing health care professionals to provide report to law enforcement; requiring health care professionals to document injuries observed and reported; requiring health care professionals to refer victims to certain programs; directing health care professionals, hospitals and related institutions to provide certain documents to law enforcement upon request; providing for codification; and providing an effective date.

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

1 SECTION 1. AMENDATORY 10 O.S. 2001, Section 7104, as amended by
2 Section 1, Chapter 53, O.S.L. 2005 (10 O.S. Supp. 2007, Section 7104), is amended to
3 read as follows:
4 Section 7104. A. Any physician, surgeon, resident, intern, physician's assistant,
5 registered nurse, or any other health care professional examining, attending, or treating
6 the victim of what appears to be criminally injurious conduct, including, but not limited
7 to, child physical or sexual abuse, as defined by the Oklahoma Crime Victims
8 Compensation Act, shall report orally or by telephone the matter promptly to the nearest

1 law enforcement agency in the county wherein the criminally injurious conduct occurred,
2 or if the location where the conduct occurred is unknown, the report shall be made to the
3 law enforcement agency nearest to the location where the injury is treated.

4 B. However, criminally injurious conduct which ~~appears~~:

5 1. Appears to be or is reported by the victim to be domestic abuse, as defined in
6 Section 60.1 of Title 22 of the Oklahoma Statutes, domestic abuse by strangulation,
7 domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a
8 minor child, as defined in Section 644 of Title 21 of the Oklahoma Statutes, shall be
9 reported according to the standards for reporting as set forth in the Domestic Abuse
10 Reporting Act and Sections ~~3 58~~ and ~~4 59~~ of ~~this act~~ Title 22 of the Oklahoma Statutes; or

11 2. Appears to be or is reported by the victim to be rape, rape by instrumentation or
12 forcible sodomy, as defined in Section 1111, 1111.1 or 888 of Title 21 of the Oklahoma
13 Statutes, or any form of sexual assault, shall be reported according to the standards for
14 reporting as set forth in Section 2 of this act.

15 SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma
16 Statutes as Section 40.3A of Title 22, unless there is created a duplication in numbering,
17 reads as follows:

18 A. Criminally injurious conduct, as defined by the Oklahoma Crime Victims
19 Compensation Act, which appears to be or is reported by the victim to be rape, rape by
20 instrumentation or forcible sodomy, as defined in Section 1111, 1111.1 or 888 of Title 21
21 of the Oklahoma Statutes, or any form of sexual assault, shall be reported according to
22 the standards for reporting as set forth in subsection B of this section.

1 B. Except as provided for in Section 7104 of Title 10 of the Oklahoma Statutes, any
2 physician, surgeon, resident, intern, physician's assistant, registered nurse, or any other
3 health care professional examining, attending, or treating the victim of what appears to
4 be or is reported by the victim to be rape, rape by instrumentation or forcible sodomy, as
5 defined in Section 1111, 1111.1 or 888 of Title 21 of the Oklahoma Statutes or any form
6 of sexual assault, shall not be required to report any incident of what appears to be or is
7 reported to be rape, rape by instrumentation, forcible sodomy or any form of sexual
8 assault if:

9 1. Committed upon the person of an adult who is over the age of eighteen (18)
10 years; and

11 2. The person is not an incapacitated adult.

12 C. Any physician, surgeon, resident, intern, physician's assistant, registered nurse,
13 or any other health care professional examining, attending, or treating a victim shall be
14 required to report any incident of what appears to be or is reported to be rape, rape by
15 instrumentation, forcible sodomy or any form of sexual assault, if requested to do so
16 either orally or in writing by the victim and shall be required to inform the victim of their
17 right to have a report made. A requested report of any incident shall be promptly made
18 orally or by telephone to the nearest law enforcement agency in the county wherein the
19 sexual assault occurred or, if the location where the sexual assault occurred is unknown,
20 the report shall be made to the law enforcement agency nearest to the location where the
21 injury is treated.

1 D. In all cases of what appears to be or is reported to be rape, rape by
2 instrumentation, forcible sodomy or any form of sexual assault, the physician, surgeon,
3 resident, intern, physician's assistant, registered nurse, or any other health care
4 professional examining, attending, or treating the victim of what appears to be rape, rape
5 by instrumentation, forcible sodomy or any form of sexual assault, shall clearly and
6 legibly document the incident and injuries observed and reported, as well as any
7 treatment provided or prescribed.

8 E. In all cases of what appears to be or is reported to be rape, rape by
9 instrumentation, forcible sodomy or any form of sexual assault, the physician, surgeon,
10 resident, intern, physician's assistant, registered nurse, or any other health care
11 professional examining, attending, or treating the victim of what appears to be rape, rape
12 by instrumentation, forcible sodomy or any form of sexual assault, shall refer the victim
13 to sexual assault and victim services programs including providing the victim with
14 twenty-four-hour statewide telephone communication service established by Section 18p-
15 5 of Title 74 of the Oklahoma Statutes.

16 F. Every physician, surgeon, resident, intern, physician's assistant, registered
17 nurse, or any other health care professional making a report of rape, rape by
18 instrumentation, forcible sodomy or any form of sexual assault pursuant to this section
19 or examining a victim of rape, rape by instrumentation, forcible sodomy or any form of
20 sexual assault to determine the likelihood of rape, rape by instrumentation, forcible
21 sodomy or any form of sexual assault, and every hospital or related institution in which
22 the victim of rape, rape by instrumentation, forcible sodomy or any form of sexual assault

1 was examined or treated shall, upon the request of a law enforcement officer conducting
2 a criminal investigation into the case, provide copies of the results of the examination or
3 copies of the examination on which the report was based, and any other clinical notes, x-
4 rays, photographs, and other previous or current records relevant to the case to the
5 investigating law enforcement officer.

6 SECTION 3. This act shall become effective November 1, 2008.

7 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,
8 dated 02-25-08 - DO PASS, As Coauthored.