

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 894

By: Coffee and Ivester of the
Senate

6 and

7 Miller of the House

8
9 COMMITTEE SUBSTITUTE

10 An Act relating to sexual assault; amending 10 O.S.
11 2001, Section 7104, as amended by Section 1, Chapter
12 53, O.S.L. 2005 (10 O.S. Supp. 2008, Section 7104),
13 which relates to the Oklahoma Child Abuse Reporting
14 and Prevention Act; clarifying language; updating
15 statutory reference; requiring certain crimes be
16 reported according to certain standards; providing
17 exceptions from certain reporting requirements;
18 requiring health care professionals to make a report
19 upon request; requiring notification to victims of
20 the right to make a report; directing health care
21 professionals to provide report to law enforcement;
22 requiring health care professionals to document
23 injuries observed and reported; requiring health care
24 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
2 amended by Section 1, Chapter 53, O.S.L. 2005 (10 O.S. Supp. 2008,
3 Section 7104), is amended to read as follows:

4 Section 7104. A. Any physician, surgeon, resident, intern,
5 physician's assistant, registered nurse, or any other health care
6 professional examining, attending, or treating the victim of what
7 appears to be criminally injurious conduct, including, but not
8 limited to, child abuse, either physical or sexual ~~abuse~~, as defined
9 by the Oklahoma Crime Victims Compensation Act, shall report orally
10 or by telephone the matter promptly to the nearest law enforcement
11 agency in the county wherein the criminally injurious conduct
12 occurred, or if the location where the conduct 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 B. However, criminally injurious conduct which ~~appears:~~

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

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1 2. Appears to be or is reported by the victim to be rape, rape
2 by instrumentation or forcible sodomy, as defined in Section 1111,
3 1111.1 or 888 of Title 21 of the Oklahoma Statutes, or any form of
4 sexual assault, shall be reported according to the standards for
5 reporting as set forth in Section 2 of this act.

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

9 A. Except as provided for in Section 7104 of Title 10 of the
10 Oklahoma Statutes, any physician, surgeon, resident, intern,
11 physician's assistant, registered nurse, or any other health care
12 professional examining, attending, or treating the victim of what
13 appears to be or is reported by the victim to be rape, rape by
14 instrumentation or forcible sodomy, as defined in Section 1111,
15 1111.1 or 888 of Title 21 of the Oklahoma Statutes or any form of
16 sexual assault, shall not be required to report any incident of what
17 appears to be or is reported to be such crimes if:

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

20 2. The person is not an incapacitated adult.

21 B. Any physician, surgeon, resident, intern, physician's
22 assistant, registered nurse, or any other health care professional
23 examining, attending, or treating a victim shall be required to
24 report any incident of what appears to be or is reported to be rape,

1 rape by instrumentation, forcible sodomy or any form of sexual
2 assault, if requested to do so either orally or in writing by the
3 victim and shall be required to inform the victim of the victim's
4 right to have a report made. A requested report of any incident
5 shall be promptly made orally or by telephone to the nearest law
6 enforcement agency in the county wherein the sexual assault occurred
7 or, if the location where the sexual assault occurred is unknown,
8 the report shall be made to the law enforcement agency nearest to
9 the location where the injury is treated.

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

18 D. In all cases of what appears to be or is reported to be
19 rape, rape by instrumentation, forcible sodomy or any form of sexual
20 assault, the physician, surgeon, resident, intern, physician's
21 assistant, registered nurse, or any other health care professional
22 examining, attending, or treating the victim of what appears to be
23 rape, rape by instrumentation, forcible sodomy or any form of sexual
24 assault, shall refer the victim to sexual assault and victim

1 services programs, including providing the victim with twenty-four-
2 hour statewide telephone communication service established by
3 Section 18p-5 of Title 74 of the Oklahoma Statutes.

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

16 SECTION 3. This act shall become effective November 1, 2009.

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