

ENROLLED SENATE
BILL NO. 894

By: Coffee and Ivester of the
Senate

and

Miller and Cooksey of the
House

An Act relating to sexual assault; amending 10 O.S. 2001, Section 7104, as amended by Section 1, Chapter 53, O.S.L. 2005 (10 O.S. Supp. 2008, Section 7104), which relates to the Oklahoma Child Abuse Reporting and Prevention Act; clarifying language; updating statutory reference; requiring certain crimes be reported according to certain standards; providing exceptions from certain reporting requirements; 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:

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7104, as amended by Section 1, Chapter 53, O.S.L. 2005 (10 O.S. Supp. 2008, Section 7104), is amended to read as follows:

Section 7104. A. Any physician, surgeon, resident, intern, physician's assistant, registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be criminally injurious conduct, including, but not limited to, child abuse, either physical or sexual abuse, as defined by the Oklahoma Crime Victims Compensation Act, shall report orally or by telephone the matter promptly to the nearest law enforcement agency in the county wherein the criminally injurious conduct occurred, or if the location where the conduct occurred is unknown, the report shall be made to the law enforcement agency nearest to the location where the injury is treated.

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

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

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

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

A. Except as provided for in Section 7104 of Title 10 of the Oklahoma Statutes, any physician, surgeon, resident, intern, physician's assistant, registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be or is reported by the victim to be rape, rape by

instrumentation or forcible sodomy, as defined in Section 1111, 1111.1 or 888 of Title 21 of the Oklahoma Statutes or any form of sexual assault, shall not be required to report any incident of what appears to be or is reported to be such crimes if:

1. Committed upon a person who is over the age of eighteen (18) years; and
2. The person is not an incapacitated adult.

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

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

D. In all cases of what appears to be or is reported to be rape, rape by instrumentation, forcible sodomy or any form of sexual assault, the physician, surgeon, resident, intern, physician's assistant, registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be rape, rape by instrumentation, forcible sodomy or any form of sexual assault, shall refer the victim to sexual assault and victim services programs, including providing the victim with twenty-four-

hour statewide telephone communication service established by Section 18p-5 of Title 74 of the Oklahoma Statutes.

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

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

Passed the Senate the 13th day of April, 2009.

Presiding Officer of the Senate

Passed the House of Representatives the 31st day of March, 2009.

Presiding Officer of the House
of Representatives