

THE HOUSE OF REPRESENTATIVES  
Wednesday, March 25, 2009

Committee Substitute for  
ENGROSSED  
Senate Bill No. 894

COMMITTEE SUBSTITUTE FOR ENGROSSED 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:

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. 2008, 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

1 to, child abuse, either physical or sexual abuse, as defined by the Oklahoma Crime  
2 Victims Compensation Act, shall report orally or by telephone the matter promptly to the  
3 nearest law enforcement agency in the county wherein the criminally injurious conduct  
4 occurred, or if the location where the conduct occurred is unknown, the report shall be  
5 made to the law enforcement agency nearest to the location where the injury is treated.

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

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

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

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

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

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

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

6 2. The person is not an incapacitated adult.

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

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

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 refer the victim  
6 to sexual assault and victim services programs, including providing the victim with  
7 twenty-four-hour statewide telephone communication service established by Section 18p-  
8 5 of Title 74 of the Oklahoma Statutes.

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

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

19 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03-24-09 - DO PASS,  
20 As Amended and Coauthored.