

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1873 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Cyndi Munson

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 1873

By: Munson

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to sexual assault victims; creating the Sexual Assault Victims' Right to Information Act; providing short title; defining terms; declaring rights of sexual assault victims; declaring right to consult with sexual assault advocate; providing for confidentiality of communications; prohibiting certain entities from charging sexual assault victims for examination and treatment costs; directing medical facility to inform victims of certain rights; directing law enforcement and district attorneys to inform victims of certain rights; declaring victims' right to counsel during proceedings; declaring victims' right to results and status of forensic evidence; declaring victims' right to retain copy of police report; prohibiting use of forensic evidence for certain purposes; directing law enforcement and medical providers to provide certain document; providing for the development of document outlining rights of victims; stating contents of document; providing for codification; and providing an effective date.

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

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

4 This act shall be known and may be cited as the "Sexual Assault
5 Victims' Right to Information Act".

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 142C-1 of Title 21, unless there
8 is created a duplication in numbering, reads as follows:

9 For the purposes of this act:

10 1. "Forensic laboratory" means a laboratory operated by or
11 contracted with the state or any unit of municipal, county, city or
12 other local government that examines physical evidence in criminal
13 matters and provides opinion testimony in a court of law;

14 2. "Law enforcement officer" means any sheriff, police officer,
15 peace officer, tribal law enforcement officer, federal law
16 enforcement officer, campus police officer or any other law
17 enforcement officer who has been certified by the Council on Law
18 Enforcement Education and Training and whose duty it is to enforce
19 and preserve the public peace or any other first responder;

20 3. "Sexual assault advocate" means any person who is a
21 behavioral health professional, or a victims' advocate working in a
22 center that offers sexual assault services who has received
23 formalized training in providing trauma-informed direct services to
24 victims of sexual assault;

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

6 5. "Sexual assault victim" or "victim" means any person who is
7 a victim of a sexual assault defined under Section 142.20 of Title
8 21 of the Oklahoma Statutes. If the victim is incompetent, the term
9 shall include the parent, guardian, spouse or any other person
10 related to the incompetent victim by consanguinity or affinity to
11 the second degree, or any other lawful representative of the
12 incompetent victim.

13 SECTION 3. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 142C-2 of Title 21, unless there
15 is created a duplication in numbering, reads as follows:

16 A sexual assault victim retains all the rights of this act
17 regardless of whether the victim agrees to participate in the
18 criminal justice system at any time and regardless of whether the
19 victim agrees to receive a medical evidentiary examination to
20 collect sexual assault forensic evidence.

21 SECTION 4. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 142C-3 of Title 21, unless there
23 is created a duplication in numbering, reads as follows:

1 A. A sexual assault victim has the right to consult with a
2 sexual assault advocate during any medical evidentiary or physical
3 examination and during any interview by law enforcement authorities
4 or district attorneys. A sexual assault victim retains this right
5 even if the victim has waived the right in a previous examination or
6 interview.

7 B. Communications between a sexual assault victim and a sexual
8 assault advocate are confidential and privileged, including
9 information disclosed in the presence of any third persons
10 conducting a medical evidentiary or physical examination.

11 C. The presence of a sexual assault advocate does not operate
12 to defeat any existing privilege otherwise guaranteed by law.

13 D. The waiving of the right to a sexual assault advocate by a
14 sexual assault victim is privileged information.

15 SECTION 5. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 142C-4 of Title 21, unless there
17 is created a duplication in numbering, reads as follows:

18 A. Costs incurred by a qualified health care professional,
19 hospital or other emergency medical facility for the medical
20 evidentiary examination portion of the examination and medications
21 which are related to the sexual assault and deemed necessary by said
22 health care professional in the treatment of a sexual assault victim
23 shall not be charged directly or indirectly to the victim.

1 B. Before a medical facility commences a medical evidentiary or
2 physical examination of a sexual assault victim, the medical
3 facility shall inform the victim of the following:

4 1. The rights of the victim pursuant to this act and other
5 relevant law in a document to be developed by the Office of the
6 Attorney General; and

7 2. The right of the victim to consult with a sexual assault
8 advocate who is to be requested by the medical facility before the
9 commencement of the medical evidentiary or physical examination,
10 unless no sexual assault advocate is available.

11 SECTION 6. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 142C-5 of Title 21, unless there
13 is created a duplication in numbering, reads as follows:

14 A. Before commencing an interview of a sexual assault victim, a
15 law enforcement officer or district attorney shall inform the victim
16 of the right to consult with a sexual assault advocate during any
17 interview by a law enforcement officer or district attorney and the
18 right to have a sexual assault advocate requested by the interviewer
19 and present before the commencement of the interview, unless no
20 sexual assault advocate is available.

21 B. No person, for any reason, shall discourage a sexual assault
22 victim from receiving a medical evidentiary or physical examination
23 or discourage the victim from reporting to the proper authorities.
24

1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 142C-6 of Title 21, unless there
3 is created a duplication in numbering, reads as follows:

4 If a victim retains counsel, the victim has the right to have
5 such counsel present during all stages of the investigation or other
6 interaction with representatives from the legal or criminal justice
7 systems within the state. Treatment of the victim should not be
8 affected or altered in any way as a result of the decision of the
9 victim to exercise this right to have counsel present during any
10 interaction with the legal or criminal justice systems within the
11 state.

12 SECTION 8. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 142C-7 of Title 21, unless there
14 is created a duplication in numbering, reads as follows:

15 A. A sexual assault victim has the right to request and receive
16 the results and status of the analysis of the sexual assault
17 forensic evidence of the victim.

18 B. A defendant or person accused or convicted of a crime
19 against a sexual assault victim shall have no standing to object to
20 any failure to comply with this section, and the failure to provide
21 a right or notice to a sexual assault victim under this section may
22 not be used by a defendant to seek to have the conviction or
23 sentence set aside.

1 C. A sexual assault victim has the right to retain a copy of
2 the police report from law enforcement at the conclusion of the
3 criminal case.

4 D. No sexual assault forensic evidence shall be used:

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

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

10 SECTION 9. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 142C-8 of Title 21, unless there
12 is created a duplication in numbering, reads as follows:

13 Upon initial interaction with a sexual assault victim, a law
14 enforcement officer or medical provider shall provide the victim
15 with a document to be developed by the Office of the Attorney
16 General that explains the rights of sexual assault victims pursuant
17 to this act and other relevant law. This document shall include,
18 but is not limited to:

19 1. A clear statement that a sexual assault victim is not
20 required to participate in the criminal justice system or to receive
21 a medical evidentiary or physical examination in order to retain the
22 rights provided by this act and other relevant law; and

23 2. Instructions for requesting the results of the analysis of
24 the sexual assault forensic evidence.

SECTION 10. This act shall become effective November 1, 2017.

56-1-7197 GRS 02/28/17