

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

HOUSE BILL 1873

By: Munson

AS INTRODUCED

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 assessment of 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 right of victim to results and status of forensic evidence; providing for the development of document outlining rights of victims; stating contents of document; directing law enforcement agency to provide certain reports; providing for codification; and providing an effective date.

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

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

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

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

4 For the purposes of this act:

5 1. "Forensic laboratory" means a laboratory operated by the
6 state or any unit of municipal, county, city or other local
7 government that examines physical evidence in criminal matters and
8 provides opinion testimony in a court of law;

9 2. "Law enforcement officer" means any sheriff, police officer,
10 peace officer, tribal law enforcement officer, federal law
11 enforcement officer, campus police officer or any other law
12 enforcement officer whose duty it is to enforce and preserve the
13 public peace or any other first responder;

14 3. "Sexual assault advocate" means any person who is a
15 behavioral health professional, or a victim advocate working in a
16 center that offers sexual assault services;

17 4. "Sexual assault forensic evidence" means any human
18 biological specimen collected by a medical provider during a
19 forensic medical examination from an alleged sexual assault victim
20 including, when circumstances indicate the need, a toxicology kit;
21 and

22 5. "Sexual assault victim" or "victim" means any person who is
23 a victim of a sexual assault defined under Section 142.20 of Title
24 21 of the Oklahoma Statutes. The term includes the parent,

1 guardian, spouse or any other person related to the victim by
2 consanguinity or affinity to the second degree, or any other lawful
3 representative of the victim, if the victim is incompetent, deceased
4 or a minor who is unable to consent to counseling services, unless
5 such person is the alleged perpetrator or suspect.

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

9 A sexual assault victim retains all the rights of this act
10 regardless of whether the victim agrees to participate in the
11 criminal justice system at any time and regardless of whether the
12 victim agrees to receive a medical evidentiary examination to
13 collect sexual assault forensic evidence.

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

17 A. A sexual assault victim has the right to consult with a
18 sexual assault advocate during any medical evidentiary or physical
19 examination and during any interview by law enforcement authorities
20 or district attorneys. A sexual assault victim retains this right
21 even if the victim has waived the right in a previous examination or
22 interview.

23 B. 1. Communications between a sexual assault victim and a
24 sexual assault advocate are confidential and privileged, including

1 information disclosed in the presence of any third persons
2 conducting a medical evidentiary or physical examination or a law
3 enforcement interview.

4 2. The presence of a sexual assault advocate does not operate
5 to defeat any existing privilege otherwise guaranteed by law.

6 C. The waiving of the right to a sexual assault advocate by a
7 sexual assault victim is privileged information.

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

11 A. No costs incurred by a qualified health care professional,
12 hospital or other emergency medical facility for the medical
13 evidentiary examination portion of the examination or treatment of a
14 sexual assault victim shall be charged directly or indirectly to the
15 victim.

16 B. Before a medical facility commences a medical evidentiary or
17 physical examination of a sexual assault victim, the medical
18 facility shall inform the victim of the following:

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

22 2. The right of the victim to consult with a sexual assault
23 advocate who is to be summoned by the medical facility before the
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1 commencement of the medical evidentiary or physical examination,
2 unless no sexual assault advocate can be summoned.

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

6 A. Before commencing an interview of a sexual assault victim, a
7 law enforcement officer or district attorney shall inform the victim
8 of the right to consult with a sexual assault advocate during any
9 interview by a law enforcement officer, district attorney or defense
10 attorney and the right to have a sexual assault advocate summoned by
11 the interviewer before the commencement of the interview, unless no
12 sexual assault advocate can be summoned.

13 B. No person, for any reason, shall discourage a sexual assault
14 victim from receiving a medical evidentiary or physical examination
15 or discourage the victim from reporting to the proper authorities.

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

19 A victim retains the right to have counsel present during all
20 stages of the investigation or other interaction with
21 representatives from the legal or criminal justice systems within
22 the state. Treatment of the victim should not be affected or
23 altered in any way as a result of the decision of the victim to
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1 exercise this right to have counsel present during any interaction
2 with the legal or criminal justice systems within the state.

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

6 A. A sexual assault victim has the right to be informed, upon
7 the request of the victim, of the results and status of the analysis
8 of the sexual assault forensic evidence of the victim, whether the
9 analysis yielded a DNA profile, and whether the analysis yielded a
10 DNA match, either to the named perpetrator or to a suspect already
11 in the OSBI Combined DNA Index System (CODIS) Database.

12 B. A defendant or person accused or convicted of a crime
13 against a sexual assault victim shall have no standing to object to
14 any failure to comply with this section, and the failure to provide
15 a right or notice to a sexual assault victim under this section may
16 not be used by a defendant to seek to have the conviction or
17 sentence set aside.

18 C. A sexual assault victim has the right to retain a copy of
19 the police report from law enforcement.

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

21 1. To prosecute a sexual assault victim for any misdemeanor
22 crimes or any crime defined under the Uniform Controlled Dangerous
23 Substances Act; or
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1 2. As a basis to search for further evidence of any unrelated
2 misdemeanor crimes or any crime under the Uniform Controlled
3 Dangerous Substances Act that may have been committed by the sexual
4 assault victim.

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

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

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

18 2. Instructions for requesting the results of the analysis of
19 the sexual assault forensic evidence; and

20 3. State and federal compensation funds for medical and other
21 costs associated with the sexual assault, and information on any
22 municipal, state or federal right to restitution for sexual assault
23 victims in the event of a criminal trial.

1 B. A law enforcement agency shall, upon written or verbal
2 request by a sexual assault victim, furnish a free, complete copy of
3 all law enforcement reports concerning the sexual assault,
4 regardless of whether the report has been closed by the law
5 enforcement agency.

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

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