

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL NO. 975

By: Floyd

AS INTRODUCED

An Act relating to sexual assault evidence collection; requiring evidence be submitted within certain time; requiring certain notification; directing certain maintenance and storage; directing adoption of guidelines; permitting protocol for testing; allowing certain kits not to be tested; and declaring an emergency.

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 150.28b of Title 74, unless there is created a duplication in numbering, reads as follows:

A. All accredited crime laboratories in the State of Oklahoma must supply to all law enforcement agencies the same standardized sexual assault evidence kit for the collection of DNA or other evidence as a result of an alleged crime of sexual assault.

B. A sexual assault evidence kit, or other DNA evidence if a kit is not collected, must be submitted to the appropriate accredited crime laboratory for forensic testing within twenty (20) days after:

1 1. Receipt of the evidence by a law enforcement agency if a
2 report of the sexual assault is made to the law enforcement agency;
3 or

4 2. A request to have the evidence tested is made to the medical
5 provider as provided for in Section 40.3A of Title 22 of the
6 Oklahoma Statutes or the law enforcement agency by:

7 a. the alleged victim,

8 b. the alleged victim's parent, guardian or legal
9 representative, if the alleged victim is a minor or
10 incapacitated adult, or

11 c. the alleged victim's personal representative, if the
12 alleged victim is deceased.

13 C. An alleged victim or, if applicable, the person representing
14 the alleged victim under paragraph 2 of subsection B of this section
15 must be informed of the purpose of submitting evidence for testing
16 and the right to request testing under subsection B of this section
17 by:

18 1. A medical provider conducting a forensic physical
19 examination for purposes of a sexual assault evidence kit; or

20 2. A law enforcement agency that collects other DNA evidence
21 associated with the sexual assault if a kit is not collected under
22 paragraph 1 of this subsection.

23 D. A collected sexual assault evidence kit, whether tested or
24 untested, must be retained in a secure, environmentally safe manner

1 for not less than fifty (50) years or for the length of the statute
2 of limitations for the alleged crime, whichever is longer.

3 E. Each law enforcement agency is responsible for the
4 maintenance and storage of untested kits either in their own
5 evidence storage or through an agreement with another agency with
6 larger capacity.

7 F. By January 1, 2020, the Oklahoma State Bureau of
8 Investigation and each accredited crime laboratory, in coordination
9 with Oklahoma Sexual Assault Forensic Evidence Task Force, shall
10 adopt and disseminate guidelines and procedures for the collection,
11 submission and testing of DNA evidence that is obtained in
12 connection with an alleged sexual assault. Priority testing shall
13 be given for sexual assault evidence kits that will yield
14 evidentiary value to the investigation and prosecution of the
15 alleged sexual assault.

16 SECTION 2. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 150.28c of Title 47, unless
18 there is created a duplication in numbering, reads as follows:

19 A. In addition to guidelines and procedures for the collection,
20 submission and testing of DNA evidence that is obtained in
21 connection with an alleged sexual assault, the Oklahoma State Bureau
22 of Investigation (OSBI) and each accredited crime laboratory within
23 the State of Oklahoma in partnership with the Oklahoma Sexual
24 Assault Forensic Evidence Task Force shall implement a priority

1 protocol for the testing of untested sexual assault evidence kits,
2 which shall include, but not be limited to:

3 1. A process to identify the kits that were never examined and
4 those that were partially examined for probability of obtaining
5 Combined DNA Index System (CODIS) eligible DNA profiles;

6 2. Whether the statute of limitations has passed for the
7 alleged crime;

8 3. Whether the offender is a stranger or non-stranger to the
9 victim; and

10 4. A process to identify those kits where the victim was or is
11 participating in the criminal justice process and has consented to
12 the testing of the kit.

13 B. Untested kits that have been identified as part of the
14 current backlog of untested or kits not submitted shall not be
15 tested where:

16 1. The victim has not reported to law enforcement; or

17 2. The victim has requested that the kit not be tested; or

18 3. The offender has been convicted for the crime and his or her
19 profile is in the Combined DNA Index System (CODIS).

20 SECTION 3. It being immediately necessary for the preservation
21 of the public peace, health or safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.
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