

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
3 BILL NO. 2546

By: Munson and Moore of the
House

4 and
5 Floyd of the Senate

6
7
8 An Act relating to sexual assault victims; creating
9 the Sexual Assault Victims' Right to Information Act;
10 defining terms; ***declaring right to consult with
11 sexual assault victims' advocate; providing for
12 confidentiality of communications; *** victims' right
13 to results and status of forensic evidence; declaring
14 victims' right to retain copy of police report;
15 prohibiting use of forensic evidence for certain
16 purposes; directing *** professionals to report
17 certain crimes; directing health care professionals
18 to inform victims of their rights; providing for
19 codification; and providing an effective date.

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22 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and the
23 entire bill and insert

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26 "An Act relating to sexual assault victims; creating
27 the Sexual Assault Victims' Right to Information Act;
28 defining terms; declaring rights of sexual assault
29 victims; declaring right to consult with sexual
30 assault victims' advocate; providing for
31 confidentiality of communications; directing medical
32 facility to inform victims of certain rights;
33 directing law enforcement and district attorneys to
34 inform victims of certain rights; declaring victims'
35 right to counsel during proceedings; declaring
36 victims' right to results and status of forensic
37 evidence; declaring victims' right to retain copy of
38 police report; prohibiting use of forensic evidence

1 for certain purposes; directing law enforcement and
2 medical providers to provide certain document to
3 sexual assault victims; amending 22 O.S. 2011,
4 Section 40.3A, which relates to duties of health care
5 professionals to report certain crimes; directing
6 health care professionals to inform victims of their
7 rights; providing for codification; and providing an
8 effective date.

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

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

13 Sections 1 through 10 of this act shall be known and may be
14 cited as the "Sexual Assault Victims' Right to Information Act".

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

18 For the purposes of this act:

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

23 2. "Law enforcement officer" means any sheriff, police officer,
24 peace officer, tribal law enforcement officer, federal law
enforcement officer, campus police officer or any other law
enforcement officer who has been certified by the Council on Law

1 Enforcement Education and Training (CLEET) and whose duty it is to
2 enforce and preserve the public peace or any other first responder;

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

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

14 5. "Sexual assault victims' advocate" means any person who is
15 certified as a behavioral health professional, or as a victims'
16 advocate working in a center that offers sexual assault services,
17 who has received formalized training through a government agency,
18 tribal organization, tribal agency or victim services agency in
19 providing trauma-informed direct services to victims of sexual
20 assault.

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

1 A sexual assault victim retains all the rights of this act
2 regardless of whether the victim agrees to participate in the
3 criminal justice system at any time and regardless of whether the
4 victim agrees to receive a medical evidentiary examination to
5 collect sexual assault forensic evidence.

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

9 A. A sexual assault victim has the right to consult, either in
10 person virtually or telephonically, with a sexual assault victims'
11 advocate before the commencement of any medical evidentiary or
12 physical examination, unless no sexual assault victims' advocate is
13 available. A sexual assault victim retains this right even if the
14 victim has waived the right in a previous examination or interview.
15 Where a sexual assault victims' advocate has been requested but is
16 not available for an in-person consultation, every effort shall be
17 made to provide such consultation either virtually via audio and
18 visual communication or through telephonic means.

19 B. Communications between a sexual assault victim and a sexual
20 assault victims' advocate are confidential and privileged including
21 information disclosed in the presence of any third persons
22 conducting a medical evidentiary or physical examination. Provided,
23 such information shall not be privileged or confidential from law
24 enforcement or prosecutors.

1 C. The presence of a sexual assault victims' advocate does not
2 operate to defeat any existing privilege otherwise guaranteed by
3 law.

4 D. The waiving of the right to a sexual assault victims'
5 advocate by a sexual assault victim is privileged information.

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

9 Before a medical facility commences a medical evidentiary or
10 physical examination of a sexual assault victim, the medical
11 facility shall inform the victim of the following:

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

15 2. The right of the victim to consult with a sexual assault
16 victims' advocate, who is to be requested by the medical facility
17 before the commencement of the medical evidentiary or physical
18 examination, unless no sexual assault victims' advocate is
19 available.

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

23 A. Before commencing an interview of a sexual assault victim, a
24 law enforcement officer or district attorney shall inform the victim

1 of the right to consult with a sexual assault victims' advocate
2 during any interview by a law enforcement officer or district
3 attorney and the right to have a sexual assault victims' advocate
4 requested by the interviewer and present before the commencement of
5 the interview, unless no sexual assault victims' advocate is
6 available.

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

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

13 If a victim retains counsel, the victim has the right to have
14 such counsel present during all stages of the investigation or other
15 interaction with representatives from the legal or criminal justice
16 systems within the state. Treatment of the victim should not be
17 affected or altered in any way as a result of the decision of the
18 victim to exercise this right to have counsel present during any
19 interaction with the legal or criminal justice systems within the
20 state.

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

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1 A. A sexual assault victim has the right to request and receive
2 the results and status of the analysis of the sexual assault
3 forensic evidence of the victim.

4 B. A sexual assault victim has the right to retain a copy of
5 the police report as soon as it has been completed.

6 C. No sexual assault forensic evidence shall be used:

7 1. To prosecute a sexual assault victim for any misdemeanor
8 crimes; or

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

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

15 Upon initial interaction with a sexual assault victim, a law
16 enforcement officer or medical provider shall provide the victim
17 with victim's rights information and specific documentation that
18 explains the rights of sexual assault victims pursuant to this act
19 and other relevant law prepared and distributed by the Office of the
20 Attorney General.

21 SECTION 10. AMENDATORY 22 O.S. 2011, Section 40.3A, is
22 amended to read as follows:

23 Section 40.3A. A. Any physician, surgeon, resident, intern,
24 physician assistant, registered nurse, or any other health care

1 professional examining, attending⁷ or treating the victim of what
2 appears to be or is reported by the victim to be rape, rape by
3 instrumentation or forcible sodomy, as defined in Section 1111,
4 1111.1 or 888 of Title 21 of the Oklahoma Statutes or any form of
5 sexual assault, shall not be required to report any incident of what
6 appears to be or is reported to be such crimes if:

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

9 2. The person is not an incapacitated adult.

10 B. Any physician, surgeon, resident, intern, physician
11 assistant, registered nurse⁷ or any other health care professional
12 examining, attending⁷ or treating a victim shall be required to
13 report any incident of what appears to be or is reported to be rape,
14 rape by instrumentation, forcible sodomy or any form of sexual
15 assault, if requested to do so either orally or in writing by the
16 victim and shall be required to inform the victim of the victim's
17 right to have a report made. A requested report of any incident
18 shall be promptly made orally or by telephone to the nearest law
19 enforcement agency in the county wherein the sexual assault occurred
20 or, if the location where the sexual assault occurred is unknown,
21 the report shall be made to the law enforcement agency nearest to
22 the location where the injury is treated.

23 C. In all cases of what appears to be or is reported to be
24 rape, rape by instrumentation, forcible sodomy or any form of sexual

1 assault, the physician, surgeon, resident, intern, physician
2 assistant, registered nurse, or any other health care professional
3 examining, attending, or treating the victim of what appears to be
4 such crimes, shall clearly and legibly document the incident and
5 injuries observed and reported, as well as any treatment provided or
6 prescribed.

7 D. In all cases of what appears to be or is reported to be
8 rape, rape by instrumentation, forcible sodomy or any form of sexual
9 assault, the physician, surgeon, resident, intern, physician
10 assistant, registered nurse, or any other health care professional
11 examining, attending, or treating the victim of what appears to be
12 rape, rape by instrumentation, forcible sodomy or any form of sexual
13 assault, shall inform the victim of the victim's rights including
14 those rights set forth in the Oklahoma Victim's Rights Act and the
15 Sexual Assault Victims' Right to Information Act and shall refer the
16 victim to sexual assault and victim services programs, including
17 providing the victim with twenty-four-hour statewide telephone
18 communication service established by Section 18p-5 of Title 74 of
19 the Oklahoma Statutes.

20 E. Every physician, surgeon, resident, intern, physician
21 assistant, registered nurse, or any other health care professional
22 making a report of rape, rape by instrumentation, forcible sodomy or
23 any form of sexual assault pursuant to this section or examining
24 such victims to determine the likelihood of such crimes, and every

1 hospital or related institution in which the victims were examined
2 or treated shall, upon the request of a law enforcement officer
3 conducting a criminal investigation into the case, provide to the
4 officer copies of the results of the examination or copies of the
5 examination on which the report was based, and any other clinical
6 notes, X-rays, photographs, and other previous or current records
7 relevant to the case.

8 SECTION 11. This act shall become effective November 1, 2021."

9 Passed the Senate the 21st day of April, 2021.
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12 _____
Presiding Officer of the Senate

13 Passed the House of Representatives the ____ day of _____,
14 2021.
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Presiding Officer of the House
18 of Representatives
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1 ENGROSSED HOUSE
2 BILL NO. 2546

By: Munson and Moore of the
House

3 and

4 Floyd of the Senate
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7 An Act relating to sexual assault victims; creating
8 the Sexual Assault Victims' Right to Information Act;
9 defining terms; declaring rights of sexual assault
10 victims; declaring right to consult with sexual
11 assault victims' advocate; providing for
12 confidentiality of communications; directing medical
13 facility to inform victims of certain rights;
14 directing law enforcement and district attorneys to
15 inform victims of certain rights; declaring victims'
16 right to counsel during proceedings; declaring
17 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 to
sexual assault victims; amending 22 O.S. 2011,
Section 40.3A, which relates to duties of health care
professionals to report certain crimes; directing
health care professionals to inform victims of their
rights; providing for codification; and providing an
effective date.

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

21 SECTION 12. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 142C of Title 21, unless there
23 is created a duplication in numbering, reads as follows:
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1 Sections 1 through 10 of this act shall be known and may be
2 cited as the "Sexual Assault Victims' Right to Information Act".

3 SECTION 13. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 142C-1 of Title 21, unless there
5 is created a duplication in numbering, reads as follows:

6 For the purposes of this act:

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

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

17 3. "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 4. "Sexual assault victim" or "victim" means any person who is
22 a victim of a sexual assault defined under Section 142.20 of Title
23 21 of the Oklahoma Statutes. If the victim is incompetent, the term
24 shall include the parent, guardian, spouse or any other person

1 related to the incompetent victim by consanguinity or affinity to
2 the second degree, or any other lawful representative of the
3 incompetent victim; and

4 5. "Sexual assault victims' advocate" means any person who is
5 certified as a behavioral health professional, or as a victims'
6 advocate working in a center that offers sexual assault services,
7 who has received formalized training through a government agency,
8 tribal organization, tribal agency or victim services agency in
9 providing trauma-informed direct services to victims of sexual
10 assault.

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

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

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

22 A. A sexual assault victim has the right to consult, either in
23 person or via telemedicine, with a sexual assault victims' advocate
24 before the commencement of any medical evidentiary or physical

1 examination, unless no sexual assault victims' advocate is
2 available, and during any interview by law enforcement authorities
3 or district attorneys. A sexual assault victim retains this right
4 even if the victim has waived the right in a previous examination or
5 interview. Where a sexual assault victims' advocate is not
6 available for an in-person consultation, consultations via
7 telemedicine must be provided.

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

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

15 D. The waiving of the right to a sexual assault victims'
16 advocate by a sexual assault victim is privileged information.

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

20 Before a medical facility commences a medical evidentiary or
21 physical examination of a sexual assault victim, the medical
22 facility shall inform the victim of the following:
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1 1. The rights of the victim pursuant to this act and other
2 relevant law in a document to be developed by the Office of the
3 Attorney General; and

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

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

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

20 B. No person, for any reason, shall discourage a sexual assault
21 victim from receiving a medical evidentiary or physical examination
22 or discourage the victim from reporting to the proper authorities.
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1 SECTION 18. 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 19. 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 sexual assault victim has the right to retain a copy of
19 the police report as soon as it has been completed.

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

21 1. To prosecute a sexual assault victim for any misdemeanor
22 crimes; or
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1 2. As a basis to search for further evidence of any unrelated
2 misdemeanor crimes that may have been committed by the sexual
3 assault victim.

4 SECTION 20. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 142C-8 of Title 21, unless there
6 is created a duplication in numbering, reads as follows:

7 Upon initial interaction with a sexual assault victim, a law
8 enforcement officer and medical provider shall provide the victim
9 with victim's rights information and specific documentation that
10 explains the rights of sexual assault victims pursuant to this act
11 and other relevant law prepared and distributed by the Office of the
12 Attorney General.

13 SECTION 21. AMENDATORY 22 O.S. 2011, Section 40.3A, is
14 amended to read as follows:

15 Section 40.3A A. Any physician, surgeon, resident, intern,
16 physician assistant, registered nurse, or any other health care
17 professional examining, attending, or treating the victim of what
18 appears to be or is reported by the victim to be rape, rape by
19 instrumentation or forcible sodomy, as defined in Section 1111,
20 1111.1 or 888 of Title 21 of the Oklahoma Statutes or any form of
21 sexual assault, shall not be required to report any incident of what
22 appears to be or is reported to be such crimes if:

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

1 2. The person is not an incapacitated adult.

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

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

23 D. In all cases of what appears to be or is reported to be
24 rape, rape by instrumentation, forcible sodomy or any form of sexual

1 assault, the physician, surgeon, resident, intern, physician
2 assistant, registered nurse, or any other health care professional
3 examining, attending, or treating the victim of what appears to be
4 rape, rape by instrumentation, forcible sodomy or any form of sexual
5 assault, shall inform the victim of the victim's rights, including
6 those rights set forth in the Oklahoma Victim's Rights Act, and
7 shall refer the victim to sexual assault and victim services
8 programs, including providing the victim with twenty-four-hour
9 statewide telephone communication service established by Section
10 18p-5 of Title 74 of the Oklahoma Statutes.

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

23 SECTION 22. This act shall become effective November 1, 2021.
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1 Passed the House of Representatives the 9th day of March, 2021.

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4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2021.

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8 Presiding Officer of the Senate