

1 **SENATE FLOOR VERSION**

2 February 28, 2024

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1933

By: Floyd and Bullard of the
Senate

and

Wallace of the House

8
9 An Act relating to sexual assault; creating the
10 Sexual Assault Forensic Evidence (SAFE) Board;
11 establishing duties, powers, and responsibilities of
12 the Board; providing for use of executive sessions by
13 the Board; subjecting Board to the provisions of the
14 Oklahoma Open Meeting Act; requiring submission of
15 certain reports to certain entities; providing for
16 membership; providing for qualifications for Board
17 members; stating appointment terms; establishing
18 Board procedures for election of chair and vice
19 chair; establishing meeting frequency; stating
20 quorum; allowing for certain reimbursement; requiring
21 Office of the Attorney General to provide certain
22 support; amending 25 O.S. 2021, Section 307, as
23 amended by Section 1, Chapter 182, O.S.L. 2022 (25
24 O.S. Supp. 2023, Section 307), which relates to
executive sessions; authorizing executive sessions
for certain entity; updating statutory reference;
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 143 of Title 21, unless there is
created a duplication in numbering, reads as follows:

1 A. There is hereby created the Sexual Assault Forensic Evidence
2 (SAFE) Board within the Office of the Attorney General. The Board
3 shall have the power and duty to:

4 1. Examine the process for gathering and analyzing sexual
5 assault forensic evidence kits in this state and work with members
6 of the Legislature to draft proposed legislation to improve the
7 response of medical and law enforcement systems to sexual assault;

8 2. Develop a plan for the prioritization and acceptance of
9 untested sexual assault forensic evidence kits identified in the
10 statewide audit conducted by the Board;

11 3. Identify possible procedures for the testing of anonymous
12 sexual assault evidence kits;

13 4. Identify possible improvements for victim access to evidence
14 other than sexual assault forensic evidence kits including, but not
15 limited to, police reports and other physical evidence;

16 5. Identify additional rights of victims concerning the sexual
17 assault forensic evidence kits testing process;

18 6. Identify and pursue grants and other funding sources to
19 address untested sexual assault forensic evidence kits, reduce
20 testing wait times, provide victim notification, and improve
21 efficiencies in the kit testing process; and

22 7. Develop a comprehensive training plan for equipping and
23 enhancing the work of law enforcement, prosecutors, victim
24 advocates, Sexual Assault Nurse Examiners, and multidisciplinary

1 Sexual Assault Response Teams (SARTs) across all jurisdictions
2 within this state.

3 B. In carrying out its duties and responsibilities, the Board
4 shall:

5 1. Promulgate rules establishing criteria for the collection of
6 sexual assault forensic evidence subject to specific, in-depth
7 review by the Board;

8 2. Establish and maintain statistical information related to
9 sexual assault forensic evidence collection including, but not
10 limited to, demographic and medical diagnostic information;

11 3. Establish procedures for obtaining initial information
12 regarding the collection of sexual assault forensic evidence from
13 medical and law enforcement entities;

14 4. Review the policies, practices, and procedures of the
15 medical and law enforcement systems and make specific
16 recommendations to the entities comprising the medical and law
17 enforcement systems for actions necessary to improve such systems;

18 5. Review the extent to which the medical and law enforcement
19 systems are coordinated and evaluate whether the state is
20 efficiently discharging its sexual assault forensic evidence
21 collection responsibilities;

22 6. Request and obtain a copy of all records and reports
23 pertaining to sexual assault forensic evidence including, but not
24 limited to:

- a. hospital records,
- b. court records,
- c. local, state, and federal law enforcement records,
- d. medical and dental records, and
- e. emergency medical service records.

Confidential information provided to the Board shall be maintained by the Board in a confidential manner as otherwise required by state and federal law. Any person damaged by disclosure of such confidential information by the Board or its members which is not authorized by law may maintain an action for damages, costs, and attorney fees pursuant to The Governmental Tort Claims Act;

7. Maintain all confidential information, documents, and records in possession of the Board as confidential and not subject to subpoena or discovery in any civil or criminal proceedings; provided, however, such information, documents, and records otherwise available from other sources shall not be exempt from subpoena or discovery through such sources solely because such information, documents, and records were presented to or reviewed by the Board; and

8. Exercise all incidental powers necessary and proper for the implementation and administration of the Sexual Assault Forensic Evidence (SAFE) Board.

C. The review and discussion of individual cases of sexual assault evidence collection shall be conducted in executive session.

1 All discussions of individual cases and any writings produced by or
2 created for the Board in the course of determining a remedial
3 measure to be recommended by the Board, as the result of a review of
4 an individual case of sexual assault evidence collection, shall be
5 privileged and shall not be admissible in evidence in any
6 proceeding. All other business shall be conducted in accordance
7 with the provisions of the Oklahoma Open Meeting Act. The Board
8 shall periodically conduct meetings to discuss organization and
9 business matters and any actions or recommendations aimed at
10 improvement of the collection of sexual assault forensic evidence
11 which shall be subject to the Oklahoma Open Meeting Act.

12 D. The Board shall submit an annual statistical report on the
13 incidence of sexual assault forensic evidence collection in this
14 state for which the Board has completed its review during the past
15 calendar year including its recommendations, if any, to medical and
16 law enforcement systems. The Board shall also prepare and make
17 available to the public an annual report containing a summary of the
18 activities of the Board relating to the review of sexual assault
19 forensic evidence collection and an evaluation of whether the state
20 is efficiently discharging its sexual assault forensic evidence
21 collection responsibilities. The report shall be completed no later
22 than February 1 of the subsequent year.

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 143.1 of Title 21, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Sexual Assault Forensic Evidence (SAFE) Board shall
5 consist of seventeen (17) members as follows:

6 1. Four nonvoting members as follows:

7 a. the President Pro Tempore of the Senate shall appoint
8 two members of the Senate who shall not be members of
9 the same political party, and

10 b. the Speaker of the House of Representatives shall
11 appoint two members of the House of Representatives
12 who shall not be members of the same political party;

13 2. Seven voting members as follows:

14 a. the Attorney General or designee,

15 b. the Director of the Oklahoma State Bureau of
16 Investigation or designee,

17 c. the Chief of the Oklahoma City Police Department or
18 designee,

19 d. the Chief of the Tulsa Police Department or designee,

20 e. the Executive Coordinator of the District Attorneys
21 Council or designee,

22 f. the Executive Director of the Native Alliance Against
23 Violence or designee, and
24

1 g. the Executive Director of the Council on Law

2 Enforcement Education and Training or designee; and

3 3. Six voting members to be appointed by the Attorney General
4 to serve for terms of two (2) years and who shall be eligible for
5 reappointment. Such members shall be persons having training or
6 experience in matters related to sexual assault. The appointed
7 members shall include:

8 a. a Sexual Assault Nurse Examiner selected from a list
9 of three names submitted by the Oklahoma Nurses
10 Association,

11 b. a chief of a municipal police department, not
12 designated in subparagraph c or d of paragraph 2 of
13 this subsection, selected from a list of three names
14 submitted by the Oklahoma Association of Chiefs of
15 Police,

16 c. a county sheriff selected from a list of three names
17 submitted by the executive board of the Oklahoma
18 Sheriffs' Association,

19 d. an attorney from an office of public defenders with
20 criminal defense experience from a list of three names
21 submitted by the Oklahoma Indigent Defense System or
22 other public defenders organization,

23 e. an advocate of sexual assault victims from a
24 community-based organization, and

1 f. a person who is a survivor of sexual assault and who
2 has experience with sexual assault forensic evidence
3 kit collection or is a survivor of sexual assault
4 committed in this state who has participated in the
5 justice system process.

6 B. Every two (2) years the Board shall elect from among its
7 membership a chair and a vice chair. The Board shall meet at least
8 quarterly and may meet more frequently as necessary as determined by
9 the chair. Seven (7) voting members or their designees, as
10 specified in paragraphs 2 and 3 of subsection A of this section,
11 shall constitute a quorum.

12 C. Members shall serve without compensation but may be
13 reimbursed for necessary travel out of funds available to the Office
14 of the Attorney General pursuant to the State Travel Reimbursement
15 Act; provided, that the reimbursement shall be paid in the case of
16 state employee members by the agency employing the member.

17 D. The Office of the Attorney General shall provide
18 administrative assistance and services to the Sexual Assault
19 Forensic Evidence Board with funds appropriated or otherwise
20 available for that purpose.

21 SECTION 3. AMENDATORY 25 O.S. 2021, Section 307, as
22 amended by Section 1, Chapter 182, O.S.L. 2022 (25 O.S. Supp. 2023,
23 Section 307), is amended to read as follows:
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1 Section 307. A. No public body shall hold executive sessions
2 unless otherwise specifically provided in this section.

3 B. Executive sessions of public bodies will be permitted only
4 for the purpose of:

5 1. Discussing the employment, hiring, appointment, promotion,
6 demotion, disciplining or resignation of any individual salaried
7 public officer or employee;

8 2. Discussing negotiations concerning employees and
9 representatives of employee groups;

10 3. Discussing the purchase or appraisal of real property;

11 4. Confidential communications between a public body and its
12 attorney concerning a pending investigation, claim, or action if the
13 public body, with the advice of its attorney, determines that
14 disclosure will seriously impair the ability of the public body to
15 process the claim or conduct a pending investigation, litigation, or
16 proceeding in the public interest;

17 5. Permitting district boards of education to hear evidence and
18 discuss the expulsion or suspension of a student when requested by
19 the student involved or the student's parent, attorney or legal
20 guardian;

21 6. Discussing matters involving a specific handicapped child;

22 7. Discussing any matter where disclosure of information would
23 violate confidentiality requirements of state or federal law;

24

1 8. Engaging in deliberations or rendering a final or
2 intermediate decision in an individual proceeding pursuant to
3 Article II of the Administrative Procedures Act;

4 9. Discussing matters involving safety and security at state
5 penal institutions or correctional facilities used to house state
6 inmates;

7 10. Discussing contract negotiations involving contracts
8 requiring approval of the State Board of Corrections, which shall be
9 limited to members of the public body, the attorney for the public
10 body, and the immediate staff of the public body. No person who may
11 profit directly or indirectly by a proposed transaction which is
12 under consideration may be present or participate in the executive
13 session; or

14 11. Discussing the following:

- 15 a. the investigation of a plan or scheme to commit an act
16 of terrorism,
- 17 b. assessments of the vulnerability of government
18 facilities or public improvements to an act of
19 terrorism,
- 20 c. plans for deterrence or prevention of or protection
21 from an act of terrorism,
- 22 d. plans for response or remediation after an act of
23 terrorism,

1 e. information technology of the public body but only if
2 the discussion specifically identifies:

3 (1) design or functional schematics that demonstrate
4 the relationship or connections between devices
5 or systems,

6 (2) system configuration information,

7 (3) security monitoring and response equipment
8 placement and configuration,

9 (4) specific location or placement of systems,
10 components or devices,

11 (5) system identification numbers, names, or
12 connecting circuits,

13 (6) business continuity and disaster planning, or
14 response plans, or

15 (7) investigation information directly related to
16 security penetrations or denial of services, or

17 f. the investigation of an act of terrorism that has
18 already been committed.

19 For the purposes of this subsection, the term "terrorism" means any
20 act encompassed by the definitions set forth in Section 1268.1 of
21 Title 21 of the Oklahoma Statutes.

22 C. Notwithstanding the provisions of subsection B of this
23 section, the following public bodies may hold executive sessions:
24

- 1 1. The ~~State~~ Banking Board, as provided for under Section 306.1
2 of Title 6 of the Oklahoma Statutes;
- 3 2. The Oklahoma Industrial Finance Authority, as provided for
4 in Section 854 of Title 74 of the Oklahoma Statutes;
- 5 3. The Oklahoma Development Finance Authority, as provided for
6 in Section 5062.6 of Title 74 of the Oklahoma Statutes;
- 7 4. The Oklahoma Center for the Advancement of Science and
8 Technology, as provided for in Section 5060.7 of Title 74 of the
9 Oklahoma Statutes;
- 10 5. The Oklahoma Health Research Committee for purposes of
11 conferring on matters pertaining to research and development of
12 products, if public disclosure of the matter discussed would
13 interfere with the development of patents, copyrights, products, or
14 services;
- 15 6. The Oklahoma Workers' Compensation Commission for the
16 purposes provided for in Section 20 of Title 85A of the Oklahoma
17 Statutes;
- 18 7. A review committee, as provided for in Section 855 of Title
19 62 of the Oklahoma Statutes;
- 20 8. The Child Death Review Board for purposes of receiving and
21 conferring on matters pertaining to materials declared confidential
22 by law;
- 23 9. The Domestic Violence Fatality Review Board as provided in
24 Section 1601 of Title 22 of the Oklahoma Statutes;

1 10. The Opioid Overdose Fatality Review Board, as provided in
2 Section 2-1001 of Title 63 of the Oklahoma Statutes;

3 11. All nonprofit foundations, boards, bureaus, commissions,
4 agencies, trusteeships, authorities, councils, committees, public
5 trusts, task forces or study groups supported in whole or part by
6 public funds or entrusted with the expenditure of public funds for
7 purposes of conferring on matters pertaining to economic development
8 including the transfer of property, financing, or the creation of a
9 proposal to entice a business to remain or to locate within their
10 jurisdiction if public disclosure of the matter discussed would
11 interfere with the development of products or services or if public
12 disclosure would violate the confidentiality of the business;

13 12. The Oklahoma Indigent Defense System Board for purposes of
14 discussing negotiating strategies in connection with making possible
15 counteroffers to offers to contract to provide legal representation
16 to indigent criminal defendants and indigent juveniles in cases for
17 which the System must provide representation pursuant to the
18 provisions of the Indigent Defense Act;

19 13. The Quality Investment Committee for purposes of discussing
20 applications and confidential materials pursuant to the terms of the
21 Oklahoma Quality Investment Act;

22 14. The Oklahoma Municipal Power Authority established pursuant
23 to Section 24-101 et seq. of Title 11 of the Oklahoma Statutes and
24 in its role as an electric utility regulated by the federal

1 government, for purposes of discussing security plans and procedures
2 including, but not limited to, cybersecurity matters; ~~and~~

3 15. The Oklahoma Tax Commission for purposes of discussing
4 confidential taxpayer matters as provided in Section 205 of Title 68
5 of the Oklahoma Statutes, and in compliance with subsection E of
6 this section; and

7 16. The Sexual Assault Forensic Evidence (SAFE) Board as
8 provided in Section 1 of this act.

9 D. Except as otherwise specified in this subsection, an
10 executive session for the purpose of discussing the purchase or
11 appraisal of real property shall be limited to members of the public
12 body, the attorney for the public body and the immediate staff of
13 the public body. No landowner, real estate salesperson, broker,
14 developer or any other person who may profit directly or indirectly
15 by a proposed transaction concerning real property which is under
16 consideration may be present or participate in the executive
17 session, unless they are operating under an existing agreement to
18 represent the public body.

19 E. No public body may go into an executive session unless the
20 following procedures are strictly complied with:

21 1. The proposed executive session is noted on the agenda as
22 provided in Section 311 of this title;

23 2. The executive session is authorized by a majority vote of a
24 quorum of the members present and the vote is a recorded vote; and

1 3. Except for matters considered in executive sessions of the
2 ~~State~~ Banking Board and the Oklahoma Tax Commission, and which are
3 required by state or federal law to be confidential, any vote or
4 action on any item of business considered in an executive session
5 shall be taken in public meeting with the vote of each member
6 publicly cast and recorded.

7 F. A willful violation of the provisions of this section shall:

8 1. Subject each member of the public body to criminal sanctions
9 as provided in Section 314 of this title; and

10 2. Cause the minutes and all other records of the executive
11 session including tape recordings, to be immediately made public.

12 SECTION 4. This act shall become effective November 1, 2024.

13 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
14 February 28, 2024 - DO PASS AS AMENDED BY CS
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