

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1319

By: Nichols

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5  
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22  
8 O.S. 2011, Section 40.3A, which relates to reporting  
9 duties of healthcare professionals; providing time  
10 limitation for reporting incidents to law  
11 enforcement; establishing time limitations for  
12 collecting and submitting sexual assault examination  
13 evidence; providing completion rate requirements for  
14 analyzing and classifying evidence; directing law  
15 enforcement agencies to provide certain notification  
16 to sexual assault victims; establishing quarterly  
17 reporting requirements of sexual assaults to the  
18 Oklahoma State Bureau of Investigation; directing  
19 Bureau to annually publish sexual assault statistics  
20 on website; providing for codification; and providing  
21 an effective date.

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1 1111.1 or 888 of Title 21 of the Oklahoma Statutes or any form of  
2 sexual assault, shall not be required to report any incident of what  
3 appears to be or is reported to be such crimes if:

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

6 2. The person is not an incapacitated adult.

7 B. Any physician, surgeon, resident, intern, physician  
8 assistant, registered nurse, or any other health care professional  
9 examining, attending, or treating a victim shall be required to  
10 report any incident of what appears to be or is reported to be rape,  
11 rape by instrumentation, forcible sodomy or any form of sexual  
12 assault, if requested to do so either orally or in writing by the  
13 victim and shall be required to inform the victim of the victim's  
14 right to have a report made. A requested report of any incident  
15 shall be ~~promptly~~ made orally or by telephone within twenty-four  
16 (24) hours of receiving such request to the nearest law enforcement  
17 agency in the county wherein the sexual assault occurred or, if the  
18 location where the sexual assault occurred is unknown, the report  
19 shall be made to the law enforcement agency nearest to the location  
20 where the injury is treated.

21 C. In all cases of what appears to be or is reported to be  
22 rape, rape by instrumentation, forcible sodomy or any form of sexual  
23 assault, the physician, surgeon, resident, intern, physician  
24 assistant, registered nurse, or any other health care professional

1 examining, attending, or treating the victim of what appears to be  
2 such crimes, shall clearly and legibly document the incident and  
3 injuries observed and reported, as well as any treatment provided or  
4 prescribed.

5 D. In all cases of what appears to be or is reported to be  
6 rape, rape by instrumentation, forcible sodomy or any form of sexual  
7 assault, the physician, surgeon, resident, intern, physician  
8 assistant, registered nurse, or any other health care professional  
9 examining, attending, or treating the victim of what appears to be  
10 rape, rape by instrumentation, forcible sodomy or any form of sexual  
11 assault, shall refer the victim to sexual assault and victim  
12 services programs, including providing the victim with twenty-four-  
13 hour statewide telephone communication service established by  
14 Section 18p-5 of Title 74 of the Oklahoma Statutes.

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

1 notes, X-rays, photographs, and other previous or current records  
2 relevant to the case.

3 SECTION 2. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 40.3B of Title 22, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. Upon receiving a report of sexual assault from a healthcare  
7 professional as provided in Section 40.3A of Title 22 of the  
8 Oklahoma Statutes, the law enforcement agency shall collect and take  
9 into custody results of the sexual assault examination, biological  
10 evidence, clinical notes, X-rays, photographs and other relevant  
11 records in the case within five (5) days of receiving the sexual  
12 assault report.

13 B. Once the law enforcement agency has taken the evidence into  
14 custody, the law enforcement agency shall have fifteen (15) days to  
15 submit for testing and review the sexual assault examination  
16 results, biological evidence and records to either a forensic  
17 laboratory operated by the political subdivision of the law  
18 enforcement agency or the Oklahoma State Bureau of Investigation.  
19 By January 1, 2020, the average completion rate for the analysis and  
20 classification of the biological evidence of sexual assault  
21 examinations shall not exceed sixty (60) days, and by January 1,  
22 2022, the average completion rate for the analysis and  
23 classification of the biological evidence of sexual assault  
24 examinations shall not exceed forty-five (45) days.

1 A forensic laboratory operated by the political subdivision of a  
2 law enforcement agency shall have seventy-five percent (75%) of all  
3 previously untested sexual assault examination kits analyzed and  
4 completed by November 1, 2020. One hundred percent (100%) of all  
5 previously untested sexual assault examination kits shall be  
6 analyzed and completed by June 30, 2021.

7 C. After the law enforcement agency has submitted the evidence  
8 and records to a forensic laboratory or the Oklahoma State Bureau of  
9 Investigation, the law enforcement agency shall notify the victim  
10 from whom the evidence was collected of the submission of the  
11 evidence and records, progress of the testing, whether the testing  
12 resulted in a match to other deoxyribonucleic acid (DNA) samples and  
13 if the evidence collected is to be destroyed.

14 D. On a quarterly basis, law enforcement agencies shall report  
15 to the Oklahoma State Bureau of Investigation the number of sexual  
16 assault cases reported in their jurisdictions, the number of sexual  
17 assault examination kits submitted to a forensic laboratory, the  
18 number of sexual assault examination kits tested and those waiting  
19 to be tested and the number of charges filed and convictions  
20 obtained in sexual assault cases within their jurisdictions.  
21 Beginning January 1, 2020, and annually thereafter, the Bureau shall  
22 issue and make available on its website a public report providing  
23 statistics on the total number of reported sexual assault cases in  
24 the state, the total number of sexual assault kits tested and those

1 waiting to be tested and the total number of charges filed and  
2 convictions obtained in sexual assault cases for the previous  
3 calendar year. The report shall be compiled from reports previously  
4 submitted to the Bureau by law enforcement agencies throughout the  
5 state.

6 SECTION 3. This act shall become effective November 1, 2019.

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8 57-1-5600 GRS 12/21/18

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