

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1319

6 By: Nichols

7 COMMITTEE SUBSTITUTE

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

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

23 SECTION 1. AMENDATORY 22 O.S. 2011, Section 40.3A, is
24 amended to read as follows:

25 Section 40.3A A. Any physician, surgeon, resident, intern,
26 physician assistant, registered nurse, or any other health care
27 professional examining, attending, or treating the victim of what
28 appears to be or is reported by the victim to be rape, rape by
29 instrumentation or forcible sodomy, as defined in Section 1111,

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 twenty (20) 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 ninety (90) 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 sixty (60) days.

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

8 D. On a quarterly basis, law enforcement agencies shall report
9 to the Oklahoma State Bureau of Investigation the number of sexual
10 assault cases reported in their jurisdictions, the number of sexual
11 assault examination kits submitted to a forensic laboratory, the
12 number of sexual assault examination kits tested and those waiting
13 to be tested and the number of charges filed and convictions
14 obtained in sexual assault cases within their jurisdictions.
15 Beginning January 1, 2020, and annually thereafter, the Bureau shall
16 issue and make available on its website a public report providing
17 statistics on the total number of reported sexual assault cases in
18 the state, the total number of sexual assault kits tested and those
19 waiting to be tested and the total number of charges filed and
20 convictions obtained in sexual assault cases for the previous
21 calendar year. The report shall be compiled from reports previously
22 submitted to the Bureau by law enforcement agencies throughout the
23 state.

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

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