

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 2929

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 health care 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; directing law enforcement agencies to
14 provide certain notification to sexual assault
15 victims; establishing quarterly reporting
16 requirements of sexual assaults to the Oklahoma State
17 Bureau of Investigation; directing Bureau to annually
18 publish sexual assault statistics on website;
19 providing for codification; and providing an
20 effective date.

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

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

24 Section 40.3A A. Any physician, surgeon, resident, intern,
physician assistant, registered nurse, or any other health care
professional examining, attending, or treating the victim of what
appears to be or is reported by the victim to be rape, rape by
instrumentation or forcible sodomy, as defined in Section 1111,
1111.1 or 888 of Title 21 of the Oklahoma Statutes or any form of

1 sexual assault, shall not be required to report any incident of what
2 appears to be or is reported to be such crimes if:

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

5 2. The person is not an incapacitated adult.

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

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

1 such crimes, shall clearly and legibly document the incident and
2 injuries observed and reported, as well as any treatment provided or
3 prescribed.

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

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

1 photographs, and other previous or current records relevant to the
2 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 health care
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 seven (7) 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, 2019, 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 2020, 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. Within ten (10) days of the law enforcement agency
2 submitting the evidence and records to a forensic laboratory or the
3 Oklahoma State Bureau of Investigation, the law enforcement agency
4 shall notify the victim from whom the evidence was collected of the
5 submission of the evidence and records, progress of the testing and
6 whether the testing resulted in a match to other deoxyribonucleic
7 acid (DNA) samples. If the evidence collected for the sexual
8 assault examination kit is to be destroyed, the victim shall be
9 notified not less than sixty (60) days prior to the destruction of
10 the evidence.

11 D. On a quarterly basis, law enforcement agencies shall report
12 to the Oklahoma State Bureau of Investigation the number of sexual
13 assault cases reported in its jurisdiction, the number of sexual
14 assault examination kits submitted to a forensic laboratory, the
15 number of sexual assault examination kits tested and those waiting
16 to be tested, and the number of charges filed and convictions
17 obtained in sexual assault cases within its jurisdiction. Beginning
18 January 1, 2019, and annually thereafter, the Bureau shall issue and
19 make available on its website, a public report providing statistics
20 on the total number of reported sexual assault cases in the state,
21 the total number of sexual assault examination kits tested and those
22 waiting to be tested and the total number of charges filed and
23 convictions obtained in sexual assault cases for the previous
24 calendar year. The report shall be compiled from reports previously

1 submitted to the Bureau by law enforcement agencies throughout the
2 state.

3 SECTION 3. This act shall become effective September 1, 2018.

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