

An Act

ENROLLED SENATE
BILL NO. 1933

By: Floyd and Bullard of the
Senate

and

Wallace, Munson, Swope, and
Deck of the House

An Act relating to sexual assault; creating the Sexual Assault Forensic Evidence (SAFE) Board; establishing duties, powers, and responsibilities of the Board; providing for use of executive sessions by the Board; subjecting Board to the provisions of the Oklahoma Open Meeting Act; requiring submission of certain reports to certain entities; providing for membership; providing for qualifications for Board members; stating appointment terms; establishing Board procedures for election of chair and vice chair; establishing meeting frequency; stating quorum; allowing for certain reimbursement; requiring Office of the Attorney General to provide certain support; amending 25 O.S. 2021, Section 307, as last amended by Section 1 of Enrolled Senate Bill No. 1716 of the 2nd Session of the 59th Oklahoma Legislature, which relates to executive sessions; authorizing executive sessions for certain entity; updating statutory reference; providing for codification; and providing an effective date.

SUBJECT: Sexual assault

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:

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

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

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

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

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

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

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

7. Develop a comprehensive training plan for equipping and enhancing the work of law enforcement, prosecutors, victim advocates, Sexual Assault Nurse Examiners, and multidisciplinary Sexual Assault Response Teams (SARTs) across all jurisdictions within this state.

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

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

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

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

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

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

6. Request and obtain a copy of all records and reports pertaining to sexual assault forensic evidence including, but not 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. All discussions of individual cases and any writings produced by or created for the Board in the course of determining a remedial measure to be recommended by the Board, as the result of a review of an individual case of sexual assault evidence collection, shall be privileged and shall not be admissible in evidence in any proceeding. All other business shall be conducted in accordance with the provisions of the Oklahoma Open Meeting Act. The Board shall periodically conduct meetings to discuss organization and business matters and any actions or recommendations aimed at improvement of the collection of sexual assault forensic evidence which shall be subject to the Oklahoma Open Meeting Act.

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

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

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

1. Four nonvoting members as follows:

- a. the President Pro Tempore of the Senate shall appoint two members of the Senate who shall not be members of the same political party, and
- b. the Speaker of the House of Representatives shall appoint two members of the House of Representatives who shall not be members of the same political party;

2. Seven voting members as follows:

- a. the Attorney General or designee,
- b. the Director of the Oklahoma State Bureau of Investigation or designee,
- c. the Chief of the Oklahoma City Police Department or designee,
- d. the Chief of the Tulsa Police Department or designee,
- e. the Executive Coordinator of the District Attorneys Council or designee,
- f. the Executive Director of the Native Alliance Against Violence or designee, and
- g. the Executive Director of the Council on Law Enforcement Education and Training or designee; and

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

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

- b. a chief of a municipal police department, not designated in subparagraph c or d of paragraph 2 of this subsection, selected from a list of three names submitted by the Oklahoma Association of Chiefs of Police,
- c. a county sheriff selected from a list of three names submitted by the executive board of the Oklahoma Sheriffs' Association,
- d. an attorney from an office of public defenders with criminal defense experience from a list of three names submitted by the Oklahoma Indigent Defense System or other public defenders organization,
- e. an advocate of sexual assault victims from a community-based organization, and
- f. a person who is a survivor of sexual assault and who has experience with sexual assault forensic evidence kit collection or is a survivor of sexual assault committed in this state who has participated in the justice system process.

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

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

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

SECTION 3. AMENDATORY 25 O.S. 2021, Section 307, as last amended by Section 1 of Enrolled Senate Bill No. 1716 of the 2nd Session of the 59th Oklahoma Legislature, is amended to read as follows:

Section 307. A. No public body shall hold executive sessions unless otherwise specifically provided in this section.

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

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

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

3. Discussing the purchase or appraisal of real property;

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

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

6. Discussing matters involving a specific disabled child;

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

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

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

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

11. Discussing the following:

- a. the investigation of a plan or scheme to commit an act of terrorism,
- b. assessments of the vulnerability of government facilities or public improvements to an act of terrorism,
- c. plans for deterrence or prevention of or protection from an act of terrorism,
- d. plans for response or remediation after an act of terrorism,
- e. information technology of the public body but only if the discussion specifically identifies:
 - (1) design or functional schematics that demonstrate the relationship or connections between devices or systems,
 - (2) system configuration information,
 - (3) security monitoring and response equipment placement and configuration,
 - (4) specific location or placement of systems, components or devices,

- (5) system identification numbers, names, or connecting circuits,
 - (6) business continuity and disaster planning, or response plans, or
 - (7) investigation information directly related to security penetrations or denial of services,
- f. the investigation of an act of terrorism that has already been committed, or
 - g. for the purposes of this paragraph, the term "terrorism" means any act encompassed by the definitions set forth in Section 1268.1 of Title 21 of the Oklahoma Statutes; or

12. Reviewing and discussing mental health documents related to a licensee under investigation or review by a professional licensing board if:

- a. the executive session is held only to review or discuss mental health documents directly related to the licensee or to receive testimony from relevant witnesses as necessary for the board to make a determination in the matter,
- b. the documents reviewed or discussed are kept confidential, privileged and not discoverable in civil actions, and not made available to the public, and
- c. the licensee is given the opportunity to be present during any witness testimony or discussion of the mental health documents.

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

- 1. The Banking Board, as provided for under Section 306.1 of Title 6 of the Oklahoma Statutes;

2. The Oklahoma Industrial Finance Authority, as provided for in Section 854 of Title 74 of the Oklahoma Statutes;

3. The Oklahoma Development Finance Authority, as provided for in Section 5062.6 of Title 74 of the Oklahoma Statutes;

4. The Oklahoma Center for the Advancement of Science and Technology, as provided for in Section 5060.7 of Title 74 of the Oklahoma Statutes;

5. The Oklahoma Health Research Committee for purposes of conferring on matters pertaining to research and development of products, if public disclosure of the matter discussed would interfere with the development of patents, copyrights, products, or services;

6. The Oklahoma Workers' Compensation Commission for the purposes provided for in Section 22 of Title 85A of the Oklahoma Statutes;

7. A review committee, as provided for in Section 855 of Title 62 of the Oklahoma Statutes;

8. The Child Death Review Board for purposes of receiving and conferring on matters pertaining to materials declared confidential by law;

9. The Domestic Violence Fatality Review Board as provided in Section 1601 of Title 22 of the Oklahoma Statutes;

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

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

interfere with the development of products or services or if public disclosure would violate the confidentiality of the business;

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

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

14. The Oklahoma Municipal Power Authority established pursuant to Section 24-101 et seq. of Title 11 of the Oklahoma Statutes and in its role as an electric utility regulated by the federal government, for purposes of discussing security plans and procedures including, but not limited to, cybersecurity matters; ~~and~~

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

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

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

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

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

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

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

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

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

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

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

Passed the Senate the 12th day of March, 2024.

Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of April, 2024.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____