

1 **SENATE FLOOR VERSION**

2 February 28, 2017

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 208

By: Floyd of the Senate

and

Munson of the House

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8  
9 An Act relating to sexual assault victims; creating  
10 the Sexual Assault Victims' Right to Information Act;  
11 providing short title; defining terms; declaring  
12 rights of sexual assault victims; declaring right to  
13 consult with sexual assault advocate; providing for  
14 confidentiality of communications; prohibiting  
15 assessment of examination and treatment costs;  
16 directing medical facility to inform victims of  
17 certain rights; directing law enforcement and  
18 district attorneys to inform victims of certain  
19 rights; declaring victims' right to counsel during  
20 proceedings; declaring victims' right to results and  
21 status of forensic evidence; declaring victims' right  
22 to retain copy of police report; prohibiting use of  
23 forensic evidence for certain purposes; directing law  
24 enforcement and medical providers to certain  
document; providing for the development of document  
outlining rights of victims; stating contents of  
document; directing law enforcement agency to provide  
certain reports; providing for codification; and  
providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 142C of Title 21, unless there  
3 is created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "Sexual Assault  
5 Victims' Right to Information Act".

6 SECTION 2. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 142C-1 of Title 21, unless there  
8 is created a duplication in numbering, reads as follows:

9 For the purposes of this act:

10 1. "Forensic laboratory" means a laboratory operated by or  
11 contracted with the state or any unit of municipal, county, city or  
12 other local government that examines physical evidence in criminal  
13 matters and provides opinion testimony in a court of law;

14 2. "Law enforcement officer" means any sheriff, police officer,  
15 peace officer, tribal law enforcement officer, federal law  
16 enforcement officer, campus police officer or any other law  
17 enforcement officer who has been certified by the Council on Law  
18 Enforcement Education and Training and whose duty it is to enforce  
19 and preserve the public peace or any other first responder;

20 3. "Sexual assault victims' advocate" means any person who is a  
21 behavioral health professional, or a victims' advocate working in a  
22 center that offers sexual assault services who has received  
23 formalized training in providing trauma-informed direct services to  
24 victims of sexual assault;

1           4. "Sexual assault forensic evidence" means any human  
2 biological specimen collected by a medical provider during a  
3 forensic medical examination from an alleged sexual assault victim  
4 including, when circumstances indicate the need, a toxicology kit;  
5 and

6           5. "Sexual assault victim" or "victim" means any person who is  
7 a victim of a sexual assault defined under Section 142.20 of Title  
8 21 of the Oklahoma Statutes. If the victim is incompetent, the term  
9 shall include the parent, guardian, spouse or any other person  
10 related to the incompetent victim by consanguinity or affinity to  
11 the second degree, or any other lawful representative of the  
12 incompetent victim.

13           SECTION 3.       NEW LAW       A new section of law to be codified  
14 in the Oklahoma Statutes as Section 142C-2 of Title 21, unless there  
15 is created a duplication in numbering, reads as follows:

16           A sexual assault victim retains all the rights of this act  
17 regardless of whether the victim agrees to participate in the  
18 criminal justice system at any time and regardless of whether the  
19 victim agrees to receive a medical evidentiary examination to  
20 collect sexual assault forensic evidence.

21           SECTION 4.       NEW LAW       A new section of law to be codified  
22 in the Oklahoma Statutes as Section 142C-3 of Title 21, unless there  
23 is created a duplication in numbering, reads as follows:

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1           A. A sexual assault victim has the right to consult with a  
2 sexual assault victims' advocate during any medical evidentiary or  
3 physical examination and during any interview by law enforcement  
4 authorities or district attorneys. A sexual assault victim retains  
5 this right even if the victim has waived the right in a previous  
6 examination or interview.

7           B. Communications between a sexual assault victim and a sexual  
8 assault victims' advocate are confidential and privileged, including  
9 information disclosed in the presence of any third persons  
10 conducting a medical evidentiary or physical examination or a law  
11 enforcement interview.

12           C. The presence of a sexual assault victims' advocate does not  
13 operate to defeat any existing privilege otherwise guaranteed by  
14 law.

15           D. The waiving of the right to a sexual assault victims'  
16 advocate by a sexual assault victim is privileged information.

17           SECTION 5.           NEW LAW           A new section of law to be codified  
18 in the Oklahoma Statutes as Section 142C-4 of Title 21, unless there  
19 is created a duplication in numbering, reads as follows:

20           A. Costs incurred by a qualified health care professional,  
21 hospital or other emergency medical facility for the medical  
22 evidentiary examination portion of the examination or treatment of a  
23 sexual assault victim and not paid by the Crime Victims Compensation  
24 Board shall not be charged directly or indirectly to the victim.

1 B. Before a medical facility commences a medical evidentiary or  
2 physical examination of a sexual assault victim, the medical  
3 facility shall inform the victim of the following:

4 1. The rights of the victim pursuant to this act and other  
5 relevant law in a document to be developed by the Office of the  
6 Attorney General; and

7 2. The right of the victim to consult with a sexual assault  
8 victims' advocate who is to be requested by the medical facility  
9 before the commencement of the medical evidentiary or physical  
10 examination, unless no sexual assault victims' advocate is  
11 available.

12 SECTION 6. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 142C-5 of Title 21, unless there  
14 is created a duplication in numbering, reads as follows:

15 A. Before commencing an interview of a sexual assault victim, a  
16 law enforcement officer or district attorney shall inform the victim  
17 of the right to consult with a sexual assault victims' advocate  
18 during any interview by a law enforcement officer or district  
19 attorney and the right to have a sexual assault victims' advocate  
20 requested by the interviewer and present before the commencement of  
21 the interview, unless no sexual assault victims' advocate is  
22 available.

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1 B. No person, for any reason, shall discourage a sexual assault  
2 victim from receiving a medical evidentiary or physical examination  
3 or discourage the victim from reporting to the proper authorities.

4 SECTION 7. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 142C-6 of Title 21, unless there  
6 is created a duplication in numbering, reads as follows:

7 If a victim retains counsel, the victim has the right to have  
8 such counsel present during all stages of the investigation or other  
9 interaction with representatives from the legal or criminal justice  
10 systems within the state. Treatment of the victim should not be  
11 affected or altered in any way as a result of the decision of the  
12 victim to exercise this right to have counsel present during any  
13 interaction with the legal or criminal justice systems within the  
14 state.

15 SECTION 8. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 142C-7 of Title 21, unless there  
17 is created a duplication in numbering, reads as follows:

18 A. A sexual assault victim has the right to request and receive  
19 the results and status of the analysis of the sexual assault  
20 forensic evidence of the victim.

21 B. A defendant or person accused or convicted of a crime  
22 against a sexual assault victim shall have no standing to object to  
23 any failure to comply with this section, and the failure to provide  
24 a right or notice to a sexual assault victim under this section may

1 not be used by a defendant to seek to have the conviction or  
2 sentence set aside.

3 C. A sexual assault victim has the right to retain a copy of  
4 the police report from law enforcement at the conclusion of the  
5 criminal case.

6 D. No sexual assault forensic evidence shall be used:

7 1. To prosecute a sexual assault victim for any misdemeanor  
8 crimes; or

9 2. As a basis to search for further evidence of any unrelated  
10 misdemeanor crimes that may have been committed by the sexual  
11 assault victim.

12 SECTION 9. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 142C-8 of Title 21, unless there  
14 is created a duplication in numbering, reads as follows:

15 A. Upon initial interaction with a sexual assault victim, a law  
16 enforcement officer or medical provider shall provide the victim  
17 with a document to be developed by the Office of the Attorney  
18 General that explains the rights of sexual assault victims pursuant  
19 to this act and other relevant law. This document shall include,  
20 but is not limited to:

21 1. A clear statement that a sexual assault victim is not  
22 required to participate in the criminal justice system or to receive  
23 a medical evidentiary or physical examination in order to retain the  
24 rights provided by this act and other relevant law; and

1           2. Instructions for requesting the results of the analysis of  
2 the sexual assault forensic evidence.

3           B. A law enforcement agency shall, upon written request by a  
4 sexual assault victim, furnish a free, complete copy of all law  
5 enforcement reports concerning the sexual assault at the conclusion  
6 of the criminal case.

7           SECTION 10. This act shall become effective November 1, 2017.

8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
9 February 28, 2017 - DO PASS AS AMENDED

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