

1 **SENATE FLOOR VERSION**

2 February 26, 2019

3 SENATE BILL NO. 975

By: Floyd and Bice of the
Senate

4 and

5 Echols of the House
6

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9 An Act relating to sexual assault evidence
10 collection; requiring evidence be submitted within
11 certain time; requiring certain notification;
12 directing certain maintenance and storage; directing
13 adoption of guidelines; permitting protocol for
14 testing; allowing certain kits not to be tested;
15 providing for codification; and declaring an
16 emergency.

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

18 SECTION 1. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 150.28b of Title 74, unless
20 there is created a duplication in numbering, reads as follows:

21 A. All accredited crime laboratories in the State of Oklahoma
22 must supply to all law enforcement agencies the same standardized
23 sexual assault evidence kit for the collection of DNA or other
24 evidence as a result of an alleged crime of sexual assault.

1 B. A sexual assault evidence kit, or other DNA evidence if a
2 kit is not collected, must be submitted to the appropriate
3 accredited crime laboratory for forensic testing within twenty (20)
4 days after:

5 1. Receipt of the evidence by a law enforcement agency if a
6 report of the sexual assault is made to the law enforcement agency;
7 or

8 2. A request to have the evidence tested is made to the medical
9 provider as provided for in Section 40.3A of Title 22 of the
10 Oklahoma Statutes or the law enforcement agency by:

- 11 a. the alleged victim,
- 12 b. the alleged victim's parent, guardian or legal
13 representative, if the alleged victim is a minor or
14 incapacitated adult, or
- 15 c. the alleged victim's personal representative, if the
16 alleged victim is deceased.

17 C. An alleged victim or, if applicable, the person representing
18 the alleged victim under paragraph 2 of subsection B of this section
19 must be informed of the purpose of submitting evidence for testing
20 and the right to request testing under subsection B of this section
21 by:

22 1. A medical provider conducting a forensic physical
23 examination for purposes of a sexual assault evidence kit; or

24

1 2. A law enforcement agency that collects other DNA evidence
2 associated with the sexual assault if a kit is not collected under
3 paragraph 1 of this subsection.

4 D. A collected sexual assault evidence kit, whether tested or
5 untested, must be retained in a secure, environmentally safe manner
6 for not less than fifty (50) years or for the length of the statute
7 of limitations for the alleged crime, whichever is longer.

8 E. Each law enforcement agency is responsible for the
9 maintenance and storage of untested kits either in their own
10 evidence storage or through an agreement with another agency with
11 larger capacity.

12 F. By January 1, 2020, the Oklahoma State Bureau of
13 Investigation and each accredited crime laboratory, in coordination
14 with Oklahoma Sexual Assault Forensic Evidence Task Force, shall
15 adopt and disseminate guidelines and procedures for the collection,
16 submission and testing of DNA evidence that is obtained in
17 connection with an alleged sexual assault. Priority testing shall
18 be given for sexual assault evidence kits that will yield
19 evidentiary value to the investigation and prosecution of the
20 alleged sexual assault.

21 SECTION 2. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 150.28c of Title 74, unless
23 there is created a duplication in numbering, reads as follows:

1 A. In addition to guidelines and procedures for the collection,
2 submission and testing of DNA evidence that is obtained in
3 connection with an alleged sexual assault, the Oklahoma State Bureau
4 of Investigation (OSBI) and each accredited crime laboratory within
5 the State of Oklahoma in partnership with the Oklahoma Sexual
6 Assault Forensic Evidence Task Force shall implement a priority
7 protocol for the testing of untested sexual assault evidence kits,
8 which shall include, but not be limited to:

9 1. A process to identify the kits that were never examined and
10 those that were partially examined for probability of obtaining
11 Combined DNA Index System (CODIS) eligible DNA profiles;

12 2. Whether the statute of limitations has passed for the
13 alleged crime;

14 3. Whether the offender is a stranger or non-stranger to the
15 victim; and

16 4. A process to identify those kits where the victim was or is
17 participating in the criminal justice process and has consented to
18 the testing of the kit.

19 B. Untested kits that have been identified as part of the
20 current backlog of untested or kits not submitted shall not be
21 tested where:

22 1. The victim has not reported to law enforcement; or

23 2. The victim has requested that the kit not be tested; or

24

1 3. The offender has been convicted for the crime and his or her
2 profile is in the Combined DNA Index System (CODIS).

3 SECTION 3. It being immediately necessary for the preservation
4 of the public peace, health or safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

7 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
8 February 26, 2019 - DO PASS
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