

An Act

ENROLLED SENATE
BILL NO. 975

By: Floyd, Bice and Ikley-
Freeman of the Senate

and

Echols and Nollan of the
House

An Act relating to sexual assault evidence collection; requiring evidence be submitted within certain time; allowing certain refusal; requiring certain notification; directing certain maintenance and storage; directing adoption of guidelines; permitting protocol for testing; allowing certain kits not to be tested; and declaring an emergency.

SUBJECT: Sexual assault evidence kits

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 150.28b of Title 74, unless there is created a duplication in numbering, reads as follows:

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

B. A sexual assault evidence kit, or other DNA evidence if a kit is not collected, must be submitted to the appropriate accredited crime laboratory for forensic testing within twenty (20) days after receipt of the evidence by a law enforcement agency if a report of the sexual assault is made to the law enforcement agency,

unless the victim requests that the sexual assault evidence kit not be tested.

C. If, at the time the forensic medical examination is conducted, a report of the sexual assault is not made or if the victim requests that the sexual assault evidence kit not be tested, the medical provider shall inform the victim in writing of his or her right to request the testing of the sexual assault evidence kit at any future time. The law enforcement agency shall submit the sexual assault evidence kit to the appropriate accredited crime laboratory for forensic testing within twenty (20) days of such request. However, nothing in this subsection shall negate the responsibility of a medical provider to report a suspected sexual assault as provided for in Section 40.3A of Title 22 of the Oklahoma Statutes.

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

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

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

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

A. In addition to guidelines and procedures for the collection, submission and testing of DNA evidence that is obtained in

connection with an alleged sexual assault, the Oklahoma State Bureau of Investigation (OSBI) and each accredited crime laboratory within the State of Oklahoma in partnership with the Oklahoma Sexual Assault Forensic Evidence Task Force shall implement a priority protocol for the testing of untested sexual assault evidence kits, which shall include, but not be limited to:

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

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

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

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

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

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

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

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

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

Passed the Senate the 7th day of May, 2019.

Presiding Officer of the Senate

Passed the House of Representatives the 15th day of April, 2019.

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: _____