

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1319

By: Nichols

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8                               COMMITTEE SUBSTITUTE

9           An Act relating to criminal procedure; amending 22  
10 O.S. 2011, Section 40.3A, which relates to reporting  
11 duties of healthcare professionals; providing time  
12 limitation for reporting incidents to law  
13 enforcement; establishing time limitations for  
14 collecting and submitting sexual assault examination  
15 evidence; directing law enforcement agencies to  
16 provide certain notification to sexual assault  
17 victims; establishing quarterly reporting  
18 requirements of sexual assaults to the Oklahoma State  
19 Bureau of Investigation; directing Bureau to annually  
20 publish sexual assault statistics on website;  
21 providing for codification; and providing an  
22 effective date.

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

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

          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

1 instrumentation or forcible sodomy, as defined in Section 1111,  
2 1111.1 or 888 of Title 21 of the Oklahoma Statutes or any form of  
3 sexual assault, shall not be required to report any incident of what  
4 appears to be or is reported to be such crimes if:

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

7 2. The person is not an incapacitated adult.

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

22 C. In all cases of what appears to be or is reported to be  
23 rape, rape by instrumentation, forcible sodomy or any form of sexual  
24 assault, the physician, surgeon, resident, intern, physician

1 assistant, registered nurse, or any other health care professional  
2 examining, attending, or treating the victim of what appears to be  
3 such crimes, shall clearly and legibly document the incident and  
4 injuries observed and reported, as well as any treatment provided or  
5 prescribed.

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

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

1 examination on which the report was based, and any other clinical  
2 notes, X-rays, photographs, and other previous or current records  
3 relevant to the case.

4 SECTION 2. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 40.3B of Title 22, unless there  
6 is created a duplication in numbering, reads as follows:

7 A. Upon receiving a report of sexual assault from a healthcare  
8 professional as provided in Section 40.3A of Title 22 of the  
9 Oklahoma Statutes, the law enforcement agency shall collect and take  
10 into custody results of the sexual assault examination, biological  
11 evidence, clinical notes, X-rays, photographs and other relevant  
12 records in the case within five (5) days of receiving the sexual  
13 assault report.

14 B. Once the law enforcement agency has taken the evidence into  
15 custody, the law enforcement agency shall have twenty (20) days to  
16 submit for testing and review the sexual assault examination  
17 results, biological evidence and records to either a forensic  
18 laboratory operated by the political subdivision of the law  
19 enforcement agency or the Oklahoma State Bureau of Investigation.  
20 By January 1, 2020, the average completion rate for the analysis and  
21 classification of the biological evidence of sexual assault  
22 examinations shall not exceed ninety (90) days, and by January 1,  
23 2022, the average completion rate for the analysis and  
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1 classification of the biological evidence of sexual assault  
2 examinations shall not exceed sixty (60) days.

3 C. After the law enforcement agency has submitted the evidence  
4 and records to a forensic laboratory or the Oklahoma State Bureau of  
5 Investigation, the law enforcement agency shall notify the victim  
6 from whom the evidence was collected of the submission of the  
7 evidence and records, progress of the testing, whether the testing  
8 resulted in a match to other deoxyribonucleic acid (DNA) samples and  
9 if the evidence collected is to be destroyed.

10 D. On a quarterly basis, law enforcement agencies shall report  
11 to the Oklahoma State Bureau of Investigation the number of sexual  
12 assault cases reported in their jurisdictions, the number of sexual  
13 assault examination kits submitted to a forensic laboratory, the  
14 number of sexual assault examination kits tested and those waiting  
15 to be tested and the number of charges filed and convictions  
16 obtained in sexual assault cases within their jurisdictions.  
17 Beginning January 1, 2020, and annually thereafter, the Bureau shall  
18 issue and make available on its website a public report providing  
19 statistics on the total number of reported sexual assault cases in  
20 the state, the total number of sexual assault kits tested and those  
21 waiting to be tested and the total number of charges filed and  
22 convictions obtained in sexual assault cases for the previous  
23 calendar year. The report shall be compiled from reports previously  
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1 submitted to the Bureau by law enforcement agencies throughout the  
2 state.

3 SECTION 3. This act shall become effective November 1, 2019.  
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5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/27/2019 - DO  
6 PASS, As Amended.  
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