

SENATE FLOOR VERSION

February 16, 2023

SENATE BILL NO. 1000

By: Floyd, Dahm, and Jett

An Act relating to the Oklahoma State Bureau of Investigation; amending 74 O.S. 2021, Sections 150.28b and 150.28c, which relate to sexual assault evidence kits; authorizing OSBI to inquire into condition and location of certain sexual assault evidence kits; authorizing OSBI to initiate investigation on certain untested sexual assault evidence kits; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2021, Section 150.28b, is amended to read as follows:

Section 150.28b. 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,

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

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

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

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

23 F. By January 1, 2020, the Oklahoma State Bureau of
24 Investigation (OSBI) and each accredited crime laboratory, in

1 coordination with Oklahoma Sexual Assault Forensic Evidence Task
2 Force, shall adopt and disseminate guidelines and procedures for the
3 collection, submission and testing of DNA evidence that is obtained
4 in connection with an alleged sexual assault. Priority testing
5 shall be given for sexual assault evidence kits that will yield
6 evidentiary value to the investigation and prosecution of the
7 alleged sexual assault.

8 G. OSBI may inquire as to the condition and location of a
9 sexual assault evidence kit that has not been submitted to a
10 forensic laboratory within the deadlines established in subsection B
11 of this section.

12 SECTION 2. AMENDATORY 74 O.S. 2021, Section 150.28c, is
13 amended to read as follows:

14 Section 150.28c. A. In addition to guidelines and procedures
15 for the collection, submission and testing of DNA evidence that is
16 obtained in connection with an alleged sexual assault, the Oklahoma
17 State Bureau of Investigation (OSBI) and each accredited crime
18 laboratory within the State of Oklahoma in partnership with the
19 Oklahoma Sexual Assault Forensic Evidence Task Force shall implement
20 a priority protocol for the testing of untested sexual assault
21 evidence kits, which shall include, but not be limited to:

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

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

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

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

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

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

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

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

15 C. OSBI may initiate an investigation on any previously
16 untested or partially tested sexual assault evidence kit once
17 testing has been completed.

18 SECTION 3. This act shall become effective November 1, 2023.

19 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
20 February 16, 2023 - DO PASS
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