An Act

ENROLLED SENATE
BILL NO. 1000

By: Floyd, Dahm, Jett, and Garvin of the Senate

and

Bashore, Munson, and Fugate of the House

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.

SUBJECT: Sexual assault evidence kits

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, 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 (OSBI) 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.

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

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

Section 150.28c. 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).

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

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

Passed the Senate the 9th day of March, 2023.

Presiding Officer of the Senate

Passed the House of Representatives the 20th day of April, 2023.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 24th

day of April, 20 23, at 4:12 o'clock p. M.

By: Summer Cuney

Approved by the Governor of the State of Oklahoma this 28th

day of April, 20 23, at 5:07 o'clock p. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 28th

day of April, 20 23, at 5:32 o'clock p. M.

By: Brian Bingman