

HOUSE BILL No. 2228

AN ACT concerning sexual assault evidence kits; relating to submission of kits by law enforcement agencies; conducting evidence collection at child advocacy centers; amending K.S.A. 38-2227 and 65-448 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) All law enforcement agencies in this state shall adopt a written policy requiring submission of all sexual assault kits that correspond to a law enforcement report of sexual assault to the Johnson county sheriff's office criminalistics laboratory, Sedgwick county regional forensic science center, the Kansas bureau of investigation or another accredited forensic laboratory.

(b) Such policy shall:

(1) Ensure that all sexual assault kits that correspond to a law enforcement report of sexual assault are submitted to a laboratory described in subsection (a) for analysis within 30 business days from the collection of the kit for examination; and

(2) include a procedure to ensure the examination results are received by the investigating officer upon the completion of the examination.

(c) All law enforcement agencies in this state shall collaborate with the county or district attorneys in the appropriate jurisdiction regarding the contents of the written policies required by this section.

(d) Policies adopted pursuant to this section shall be made available to all law enforcement officers employed by such law enforcement agency and shall be available for public inspection during normal business hours.

(e) Policies required by this section shall be adopted and implemented by all law enforcement agencies in this state prior to January 31, 2023.

Sec. 2. K.S.A. 38-2227 is hereby amended to read as follows: 38-2227. (a) A child advocacy center in this state shall:

(1) Be a private, nonprofit incorporated agency or a governmental entity.

(2) *Be a child advocacy center recognized by the national children's alliance.*

(3) Have a neutral, child-focused facility where forensic interviews take place with children in appropriate cases of suspected or alleged physical, mental or emotional abuse or sexual abuse. All agencies shall have a place to interact with the child as investigative or treatment needs require.

~~(3)~~(4) Have a minimum designated staff that is supervised and approved by the local board of directors or governmental entity.

~~(4)~~(5) Have a multidisciplinary team that meets on a regularly scheduled basis or as the caseload of the community requires. The team shall include, but not be limited to, representatives from the state or local office prosecuting such case, law enforcement, child protective services, mental health services, a victim's advocate, child advocacy center staff and medical personnel.

~~(5)~~(6) Provide case tracking of child abuse cases seen through the center. A center shall also collect data on the number of child abuse cases seen at the center, by sex, race, age, and other relevant data, the number of cases referred for prosecution, and the number of cases referred for medical services or mental health therapy.

~~(6)~~(7) Provide medical—~~exam~~ examination services—~~or and evidence collection for physical, mental, emotional or sexual abuse, including sexual assault evidence collection pursuant to K.S.A. 65-448, and amendments thereto, on site at the child advocacy center; or provide referrals for medical examination services or evidence collection not on the site of the child advocacy center.~~

(8) Provide mental health therapy, ~~or both~~, on site at the child advocacy center, or provide referrals for ~~medical exams~~ or mental health therapy, ~~or both~~, to a facility not on the site of the child advocacy center.

~~(7)~~(9) Have an interagency commitment, in writing, covering

those aspects of agency participation in a multidisciplinary approach to the handling of cases involving physical, mental or emotional abuse.

~~(8)~~(10) Provide that child advocacy center employees and volunteers at the center are trained and screened in accordance with K.S.A. 65-516, and amendments thereto.

~~(9)~~(11) Provide training for child advocacy center staff who interview children in forensic children's interview technique.

(b) Any child advocacy center within this state that meets the standards prescribed by this section shall be eligible to receive state funds that are appropriated by the legislature.

Sec. 3. K.S.A. 65-448 is hereby amended to read as follows: 65-448. (a) Upon the request of any law enforcement officer and with the written consent of the reported victim, or upon the request of the victim, any physician, a licensed physician assistant, who has been specially trained in performing sexual assault evidence collection, or a registered professional nurse, who has been specially trained in performing sexual assault evidence collection, *if such physician, licensed physician assistant or registered nurse is on call or on duty at a:*

(1) (A) Medical care facility of this state, as defined by K.S.A. 65-425(h), and amendments thereto, shall examine persons who may be victims of sexual offenses cognizable as violations of K.S.A. 2020 Supp. 21-5503, 21-5504, 21-5506 or 21-5604, and amendments thereto, using Kansas bureau of investigation sexual assault evidence collection kits or similar kits approved by the Kansas bureau of investigation, for the purposes of gathering evidence of any such crime assault; or

(B) child advocacy center of this state, as defined by K.S.A. 38-2227, and amendments thereto, or any other facility licensed or operated by a physician, physician assistant or registered nurse licensed pursuant to chapter 65 of the Kansas Statutes Annotated, and amendments thereto, may examine persons who may be victims of sexual assault.

(2) All examinations performed pursuant to paragraph (1), shall be conducted using Kansas bureau of investigation sexual assault evidence collection kits or similar kits approved by the Kansas bureau of investigation, for the purposes of gathering evidence of any such crime.

(b) If an examination ~~has taken~~ takes place solely upon the request of the victim, the medical care facility, *child advocacy center or other facility where the examination takes place* shall not notify any law enforcement agency without the written consent of the victim, unless otherwise required by law.

(c) If the physician, licensed physician assistant or registered professional nurse refuses to perform ~~such physical~~ an examination at a medical care facility pursuant to subsection (a)(1), the prosecuting attorney is hereby empowered to seek a mandatory injunction against such physician, licensed physician assistant or registered professional nurse to enforce the provisions of ~~this act~~ subsection (a)(1). Any refusal by a physician, licensed physician assistant or registered professional nurse to perform an examination which has been requested pursuant to ~~this section~~ subsection (a)(1) shall be reported by the county or district attorney to the state board of healing arts or the board of nursing, whichever is applicable, for appropriate disciplinary action.

~~(d) The department of health and environment, in cooperation with the Kansas bureau of investigation, shall establish procedures for gathering evidence pursuant to this section. A minor may consent to examination under this section. Such consent is not subject to disaffirmance because of minority, and consent of parent or guardian of the minor is not required for such examination.~~

~~(e) (1) The hospital or medical care facility, child advocacy center or other facility shall give written notice to the parent or guardian of a minor that such an examination has taken place, except when:~~

~~(1)(A) The hospital or medical care facility, child advocacy center or other facility has information that a parent, guardian or family or~~

household member is the subject of a related criminal investigation; or

~~(2)(B)~~ the physician, licensed physician assistant or registered professional nurse, after consultation with law enforcement, reasonably believes that the child will be harmed if such notice is given.

(2) A minor may consent to an examination under this section. Such consent is not subject to disaffirmance because of minority, and consent of a parent or guardian of the minor is not required for such examination.

~~(b)(f)~~ All *unreported* sexual assault kits ~~collected that are not released to law enforcement~~ shall be sealed by either the sexual assault nurse examiner program or the facility that provided the examination and ~~kept sent to the Kansas bureau of investigation. The Kansas bureau of investigation shall retain all unreported sexual assault kits connected to a report of sexual assault in evidence storage for five 20 years in the evidence storage facilities of the Kansas bureau of investigation.~~ After ~~five~~ 20 years, such kits shall be destroyed by the Kansas bureau of investigation.

~~(e)(g)~~ *Each sexual assault kit that is received by the Johnson county sheriff's office criminalistics laboratory, Sedgwick county regional forensic science center or the Kansas bureau of investigation shall be examined if the kit is required to be released to a law enforcement agency in connection with a report of sexual assault.*

(h) The fee chargeable for conducting an examination of a victim as herein provided shall be established by the department of health and environment. Such fee, including the cost of the sexual assault evidence collection kit, shall be charged to and paid by the county where the alleged offense was committed, and refusal of the victim to report the alleged offense to law enforcement shall not excuse or exempt the county from paying such fee. The fee for conducting an examination of a victim as herein provided pursuant to this section shall not be charged or billed to the victim or to the victim's insurance carrier. Such county shall be reimbursed such fee upon the costs being paid by the defendant as court costs assessed pursuant to K.S.A. 28-172a, and amendments thereto.

~~(d)(i)~~ No medical care facility, *child advocacy center or other facility* shall incur any civil, administrative or criminal liability as a result of notifying or failing to notify any law enforcement agency if an examination has taken place solely upon the request of the victim and such notification is not otherwise required by law.

~~(e)(j)~~ The Kansas bureau of investigation may adopt rules and regulations as deemed necessary to implement the provisions of this section.

(k) As used in this section:

(1) "Unreported sexual assault kit" means a sexual assault kit collected pursuant to subsection (b) that is not released to law enforcement; and

(2) "sexual assault" means a sexual offense cognizable as a violation of K.S.A. 2021 Supp. 21-5503, 21-5504, 21-5506 or 21-5604, and amendments thereto.

Sec. 4. K.S.A. 38-2227 and 65-448 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the House, and passed that body

HOUSE concurred in
SENATE amendments _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.