

HOUSE BILL No. 2176

By Committee on Judiciary

1-26

1 AN ACT concerning sexual assault evidence collection examinations;
2 relating to parental notification; amending K.S.A. 2016 Supp. 65-448
3 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2016 Supp. 65-448 is hereby amended to read as
7 follows: 65-448. (a) Upon the request of any law enforcement officer and
8 with the written consent of the reported victim, or upon the request of the
9 victim, any physician, a licensed physician assistant, who has been
10 specially trained in performing sexual assault evidence collection, or a
11 registered professional nurse, who has been specially trained in performing
12 sexual assault evidence collection, on call or on duty at a medical care
13 facility of this state, as defined by ~~subsection (h)~~ of K.S.A. 65-425(h), and
14 amendments thereto, shall examine persons who may be victims of sexual
15 offenses cognizable as violations of K.S.A. 2016 Supp. 21-5503, 21-5504,
16 21-5506 or 21-5604, and amendments thereto, using Kansas bureau of
17 investigation sexual assault evidence collection kits or similar kits
18 approved by the Kansas bureau of investigation, for the purposes of
19 gathering evidence of any such crime. If an examination has taken place
20 solely upon the request of the victim, the medical care facility shall not
21 notify any law enforcement agency without the written consent of the
22 victim, unless otherwise required by law. If the physician, licensed
23 physician assistant or registered professional nurse refuses to perform such
24 physical examination the prosecuting attorney is hereby empowered to
25 seek a mandatory injunction against such physician, licensed physician
26 assistant or registered professional nurse to enforce the provisions of this
27 act. Any refusal by a physician, licensed physician assistant or registered
28 professional nurse to perform an examination which has been requested
29 pursuant to this section shall be reported by the county or district attorney
30 to the state board of healing arts or the board of nursing, whichever is
31 applicable, for appropriate disciplinary action. The department of health
32 and environment, in cooperation with the Kansas bureau of investigation,
33 shall establish procedures for gathering evidence pursuant to this section.
34 A minor may consent to examination under this section. Such consent is
35 not subject to disaffirmance because of minority, and consent of parent or
36 guardian of the minor is not required for such examination. The hospital or

1 medical facility shall give written notice to the parent or guardian of a
2 minor that such an examination has taken place, *except when: (1) The*
3 *hospital or medical facility has information that a parent or guardian is*
4 *the subject of a related criminal investigation; or (2) the physician,*
5 *licensed physician assistant or registered professional nurse believes that*
6 *it is in the best interests of the minor not to do so.*

7 (b) All sexual assault kits collected that are not released to law
8 enforcement shall be sealed by either the sexual assault nurse examiner
9 program or the facility that provided the examination and kept for five
10 years in the evidence storage facilities of the Kansas bureau of
11 investigation. After five years, such kits shall be destroyed by the Kansas
12 bureau of investigation.

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

24 (d) No medical care facility shall incur any civil, administrative or
25 criminal liability as a result of notifying or failing to notify any law
26 enforcement agency if an examination has taken place solely upon the
27 request of the victim and such notification is not otherwise required by
28 law.

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

32 Sec. 2. K.S.A. 2016 Supp. 65-448 is hereby repealed.

33 Sec. 3. This act shall take effect and be in force from and after its
34 publication in the statute book.