

SESSION OF 2022

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2228

As Amended by Senate Committee on Judiciary

Brief*

HB 2228, as amended, would create and amend law related to sexual assault evidence kits and collection of evidence related to abuse or sexual assault.

Law Enforcement Agency Written Policy

The bill would create law requiring all law enforcement agencies in Kansas to 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 (KBI), or another accredited forensic laboratory. The bill would require the policy to ensure such submission occurs within 30 business days from collection of the kit for examination and to include a procedure to ensure the examination results are received by the investigating officer.

All law enforcement agencies in Kansas would be required to collaborate with the county or district attorneys in the appropriate jurisdiction regarding the contents of the policies required by the bill, and the bill would require each law enforcement agency's policy to be made available to all law enforcement officers employed by the agency and to be available for public inspection during normal business hours. The bill would require the policies to be adopted and implemented by all law enforcement agencies in Kansas prior to January 31, 2023.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Collection of Evidence

The bill would amend a statute related to child advocacy centers to require such centers be recognized by the National Children's Alliance and to allow such centers to provide on-site evidence collection for physical, mental, emotional, or sexual abuse, including sexual assault evidence collection, or to provide referrals for off-site collection of such evidence.

The bill would amend a statute governing examination of victims of sexual offenses to allow such examinations by child advocacy centers or by any other facility licensed or operated by a physician, physician assistant, or registered nurse licensed under Kansas' public health statutes, and to require such examinations be conducted using KBI sexual assault evidence kits or similar kits approved by the KBI, for the purposes of gathering evidence of any such crime. A provision requiring the Kansas Department of Health and Environment to cooperate with the KBI in establishing procedures for gathering such evidence would be amended to make the KBI solely responsible for establishing such procedures.

The bill would amend a provision in the statute regarding retention of sexual assault kits to clarify that unreported sexual assault kits are to be sent to the KBI and that the retention period applies to all unreported sexual assault kits connected to a report of sexual assault. The bill would extend the required retention period for such kits from 5 years to 20 years.

The bill would add a provision to the statute requiring each sexual assault kit received by the Johnson County Sheriff's Office Criminalistics Laboratory, Sedgwick County Regional Forensic Science Center, or the KBI to be examined if the kit is required to be released to a law enforcement agency in connection with a report of sexual assault.

Finally, the bill would add definitions for "unreported sexual assault kit" and "sexual assault" and would move a

provision allowing a minor to consent to examination and add references to child advocacy centers and other facilities to apply procedural requirements.

Technical amendments would be made throughout the bill to ensure consistency in statutory phrasing.

Background

The bill was introduced by the House Committee on Judiciary at the request of Representative Patton on behalf of the KBI.

House Committee on Judiciary

In the House Committee hearing on February 15, 2021, Representative Coleman and representatives of Children's Advocacy Centers of Kansas, Johnson County Sheriff's Office, KBI, Kansas Coalition Against Sexual and Domestic Violence (KCSDV), Metropolitan Organization to Counter Sexual Assault (MOCSA), and Office of the Attorney General (OAG) testified as **proponents** of the bill, stating the bill would address recommendations by the Kansas Sexual Assault Kit Initiative and update outdated provisions with national best practices regarding sexual assault evidence collection.

Representatives of the Johnson County Sheriff's Office Criminalistics Laboratory, Kansas Chapter of International Association of Forensic Nurses, Kansas County and District Attorneys Association, and Wichita Area Sexual Assault Center provided written-only proponent testimony.

No neutral or **opponent** testimony was provided.

On February 18, 2021, additional written-only testimony from representatives of the Kansas Association of Chiefs of Police, KBI, and Kansas Sheriffs Association responding to

discussion and questions during the February 15, 2021, hearing was provided.

On February 23, 2021, the House Committee amended the bill to reflect the full name of the Johnson County Sheriff's Office Criminalistics Laboratory (at the suggestion of the Johnson County Sheriff's Office) and to clarify other facilities that may examine persons who may be victims of sexual assault (at the suggestion of the KBI).

Senate Committee on Judiciary

In the Senate Committee hearing on January 13, 2022, representatives of the Joyful Heart Foundation, KBI, KCSDV, and OAG, and a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association, testified as **proponents** of the bill.

Representatives of the International Association of Forensic Nurses, MOCSA, and Rise provided written-only proponent testimony.

No neutral or **opponent** testimony was provided.

On January 13, 2022, the Senate Committee amended the bill to extend the deadline for adoption and implementation of policies from July 1, 2022, until January 31, 2023. The Senate Committee also made technical amendments to update statutory references.

Fiscal Information

According to the February 15, 2021, fiscal note prepared by the Division of the Budget on the bill, as introduced, the KBI could establish the policy required by the bill within existing resources. The agency estimates it would cost \$28,000 for FY 2022 from the State General Fund to

purchase and install the shelves needed to accommodate the additional storage required by enactment of the bill.

The OAG states enactment of the bill could result in additional cases being referred for prosecution by local county or district attorneys, and acceptance of the cases would be based on capacity. The cost of prosecution, other than employee time, would be borne by the requesting county, but a fiscal effect cannot be determined because the OAG cannot estimate the number of cases.

The Kansas State Board of Healing Arts indicates enactment of the bill could create additional complaints and investigations, resulting in additional expenditures, but the agency estimates the effect would be negligible and could be absorbed within existing resources.

The Kansas Highway Patrol states amending its operation policies could be done within existing resources.

The Department for Children and Families states enactment of the bill would not have a fiscal effect.

The Office of Judicial Administration states any additional expenditures would be negligible and could be absorbed within existing resources.

The Kansas Association of Counties states enactment of the bill would result in additional expenditures to apply policies, collect evidence, and maintain proper custody in the transition of evidence. The League of Kansas Municipalities states enactment of the bill would not have a fiscal effect on cities.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2022 Governor's Budget Report*.

Sexual assault kits; law enforcement agencies; policies; child advocacy centers; evidence collection