

HOUSE BILL No. 2536

By Representatives Lynn and Hoheisel

1-25

1 AN ACT concerning sexual assault; relating to rights of survivors;
2 providing survivors the right to consult with a sexual assault counselor;
3 requiring notice to survivors of certain rights.
4

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

6 Section 1. (a) A survivor of sexual assault has the right to consult
7 with a sexual assault counselor and have a support person of the survivor's
8 choosing present during any medical or physical examination or any
9 interview by law enforcement, a prosecutor or a defense attorney. A
10 survivor retains this right regardless of whether the survivor waived such
11 right in a previous examination or interview.

12 (b) Before a medical provider performs a medical evidentiary or
13 physical examination of a survivor, including a sexual assault evidence
14 collection pursuant to K.S.A. 65-448, and amendments thereto, the
15 medical provider shall inform the survivor of the:

16 (1) Survivor's rights pursuant to this section by providing the survivor
17 with a document describing such rights developed by the attorney general,
18 and such document shall be signed by the survivor to confirm receipt with
19 the signature remaining confidential;

20 (2) survivor's right to consult with a sexual assault counselor to be
21 called by the medical provider before the commencement of the medical or
22 physical examination, unless no sexual assault counselor is available in a
23 timely manner, and of the survivor's right to have a support person of the
24 survivor's choosing present during such examination;

25 (3) ramifications of delaying the medical or physical examination if a
26 sexual assault counselor or support person cannot be available in a timely
27 manner; and

28 (4) survivor's right to shower at no cost after the medical or physical
29 examination unless shower facilities are not available.

30 (c) (1) Before a law enforcement officer, prosecutor or defense
31 attorney interviews a survivor, such officer or attorney shall inform the
32 survivor of the survivor's:

33 (A) Rights pursuant to this section and K.S.A. 74-7333, and
34 amendments thereto, by providing the survivor with a document
35 describing such rights developed by the attorney general, and such
36 document shall be signed by the survivor to confirm receipt;

1 (B) right to consult with a sexual assault counselor to be called by the
2 law enforcement officer, prosecutor or defense attorney before the
3 commencement of the interview unless no sexual assault counselor is
4 available in a timely manner;

5 (C) right to have a support person of the survivor's choosing present
6 during the interview unless the law enforcement officer, prosecutor or
7 defense attorney determines that the presence of such support person
8 would be detrimental to the interview and the survivor consents to the
9 absence of a support person; and

10 (D) right during an interview by law enforcement for the interview to
11 be conducted by a law enforcement officer who is the gender of the
12 survivor's choosing unless no law enforcement officer who is that gender
13 is available, then the survivor may be interviewed by any law enforcement
14 officer only with the survivor's consent.

15 (2) A law enforcement officer, prosecutor or defense attorney shall
16 not discourage a survivor from receiving a medical evidentiary or physical
17 examination.

18 (d) (1) When a law enforcement officer or medical provider initially
19 interacts with a survivor, the law enforcement officer or medical provider
20 shall provide the survivor with a document, to be developed by the
21 attorney general, that explains the rights of a survivor pursuant to this
22 section and K.S.A. 74-7333, and amendments thereto. Such document
23 shall use plain language that is comprehensible to a person proficient in
24 English at the fifth grade level, accessible to persons with visual
25 disabilities and be available in English and Spanish on the attorney
26 general's website. Such document shall include, but not be limited to:

27 (A) A clear statement that a survivor is not required to participate in
28 the criminal justice system or receive a medical or physical examination to
29 maintain the rights provided by this section;

30 (B) the telephone number or website and email address of nearby
31 sexual assault service providers and sexual assault counselors;

32 (C) forms of protection available to the survivor, including protection
33 from abuse orders pursuant to K.S.A. 60-3101 et seq., and amendments
34 thereto, and protection from stalking, sexual assault or human trafficking
35 orders pursuant to K.S.A. 60-31a01 et seq., and amendments thereto;

36 (D) information related to state and federal compensation funds for
37 medical and other costs associated with the sexual assault and information
38 on any municipal, state or federal right to restitution for survivors,
39 including information on the reporting requirements for crime victim's
40 compensation as described in K.S.A. 74-7305, and amendments thereto.

41 (2) Upon written request of a survivor, a law enforcement officer
42 shall furnish a complete and unaltered copy of all law enforcement reports
43 concerning the sexual assault, regardless of whether the report has been

1 closed by the law enforcement agency, free of charge.

2 (3) Upon written request of a survivor, a prosecutor shall provide
3 timely notice of:

4 (A) Any pretrial disposition of the case;

5 (B) the final disposition of the case, including a conviction, sentence
6 and place and time of incarceration, if any;

7 (C) a convicted defendant's location, including whenever the
8 defendant receives a temporary or final release from custody, escapes from
9 custody, is moved to a different facility or re-enters custody; and

10 (D) a convicted defendant's information on the offender registry
11 pursuant to K.S.A. 22-4901 et seq., and amendments thereto.

12 (e) A survivor has a right to have retained counsel present during all
13 stages of any medical or physical examination, interview, investigation or
14 other interaction with the legal or criminal justice system. The survivor's
15 decision to have counsel present shall not alter or affect the treatment of
16 the survivor.

17 (f) A survivor who is aggrieved by a violation of this section shall
18 have a civil cause of action against a person who or entity that violates the
19 provisions of this act, and may bring such action in an appropriate district
20 court for injunctive or other equitable relief.

21 (g) As used in this section:

22 (1) "Sexual assault counselor" means any person who is licensed by
23 the Kansas behavioral sciences regulatory board and is working as a victim
24 advocate in a domestic violence or sexual assault crisis center or a victim
25 advocate working in a domestic violence or sexual assault crisis center;
26 and

27 (2) "survivor" means any person who may be a victim of a crime
28 described in article 55 of chapter 21 of the Kansas Statutes Annotated, and
29 amendments thereto, and, if such person is incompetent, deceased or a
30 minor who is unable to consent, "survivor" means the parent, guardian,
31 spouse or other lawful representative of the survivor unless such person is
32 the alleged perpetrator of the offense.

33 Sec. 2. This act shall take effect and be in force from and after its
34 publication in the statute book.