

**HOUSE BILL No. 2228**

By Committee on Judiciary

2-3

1 AN ACT concerning sexual assault evidence kits; relating to submission of  
2 kits by law enforcement agencies; conducting evidence collection at  
3 child advocacy centers; amending K.S.A. ~~38-2227 and 65-448 and~~  
4 ~~K.S.A. 2020 Supp. 38-2227~~ and repealing the existing sections.

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

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

13 (b) Such policy shall:

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

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

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

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

26 (e) Policies required by this section shall be adopted and implemented  
27 by all law enforcement agencies in this state prior to ~~July 1, 2022~~ **January**  
28 **31, 2023**.

29 Sec. 2. ~~K.S.A. 2020 Supp. 38-2227~~ is hereby amended to read as  
30 follows: 38-2227. (a) A child advocacy center in this state shall:

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

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

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

6 ~~(3)~~(4) Have a minimum designated staff that is supervised and  
7 approved by the local board of directors or governmental entity.

8 ~~(4)~~(5) Have a multidisciplinary team that meets on a regularly  
9 scheduled basis or as the caseload of the community requires. The team  
10 shall include, but not be limited to, representatives from the state or local  
11 office prosecuting such case, law enforcement, child protective services,  
12 mental health services, a victim's advocate, child advocacy center staff and  
13 medical personnel.

14 ~~(5)~~(6) Provide case tracking of child abuse cases seen through the  
15 center. A center shall also collect data on the number of child abuse cases  
16 seen at the center, by sex, race, age, and other relevant data, the number of  
17 cases referred for prosecution, and the number of cases referred for  
18 medical services or mental health therapy.

19 ~~(6)~~(7) Provide ~~medical-exam~~ *examination services* ~~or and evidence~~  
20 *collection for physical, mental, emotional or sexual abuse, including*  
21 *sexual assault evidence collection pursuant to K.S.A. 65-448, and*  
22 *amendments thereto, on site at the child advocacy center, or provide*  
23 *referrals for medical examination services or evidence collection not on*  
24 *the site of the child advocacy center.*

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

28 ~~(7)~~(9) Have an interagency commitment, in writing, covering those  
29 aspects of agency participation in a multidisciplinary approach to the  
30 handling of cases involving physical, mental or emotional abuse.

31 ~~(8)~~(10) Provide that child advocacy center employees and volunteers  
32 at the center are trained and screened in accordance with K.S.A. 65-516,  
33 and amendments thereto.

34 ~~(9)~~(11) Provide training for child advocacy center staff who interview  
35 children in forensic children's interview technique.

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

39 Sec. 3. K.S.A. 65-448 is hereby amended to read as follows: 65-448.

40 (a) Upon the request of any law enforcement officer and with the written  
41 consent of the reported victim, or upon the request of the victim, any  
42 physician, a licensed physician assistant, who has been specially trained in  
43 performing sexual assault evidence collection, or a registered professional

1 nurse; who has been specially trained in performing sexual assault  
2 evidence collection, *if such physician, licensed physician assistant or*  
3 *registered nurse is on call or on duty at a:*

4 (1) (A) ~~Medical care facility of this state, as defined by K.S.A. 65-~~  
5 ~~425(h), and amendments thereto, shall examine persons who may be~~  
6 ~~victims of sexual offenses cognizable as violations of K.S.A. 2020 Supp.~~  
7 ~~21-5503, 21-5504, 21-5506 or 21-5604, and amendments thereto, using~~  
8 ~~Kansas bureau of investigation sexual assault evidence collection kits or~~  
9 ~~similar kits approved by the Kansas bureau of investigation, for the~~  
10 ~~purposes of gathering evidence of any such crime assault; or~~

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

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

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

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

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

42 (e) (1) ~~The hospital or medical care facility, child advocacy center or~~  
43 ~~other facility shall give written notice to the parent or guardian of a minor~~

1 that such an examination has taken place, except when:

2 ~~(1)~~(A) The ~~hospital or~~ medical care facility, *child advocacy center or*  
3 *other facility* has information that a parent, guardian or family or  
4 household member is the subject of a related criminal investigation; or

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

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

11 ~~(b)~~(f) All ~~unreported~~ sexual assault kits ~~collected that are not released~~  
12 ~~to law enforcement~~ shall be sealed by either the sexual assault nurse  
13 examiner program or the facility that provided the examination and ~~kept~~  
14 ~~sent to the Kansas bureau of investigation. The Kansas bureau of~~  
15 ~~investigation shall retain all unreported sexual assault kits connected to a~~  
16 ~~report of sexual assault in evidence storage for five 20 years in the~~  
17 ~~evidence storage facilities of the Kansas bureau of investigation. After five~~  
18 ~~20 years, such kits shall be destroyed by the Kansas bureau of~~  
19 ~~investigation.~~

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

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

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

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

1       (k) *As used in this section:*

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

5       (2) *"sexual assault" means a sexual offense cognizable as a violation*  
6 *of K.S.A. ~~2020~~ 2021 Supp. 21-5503, 21-5504, 21-5506 or 21-5604, and*  
7 *amendments thereto.*

8       Sec. 4. K.S.A. **38-2227** *and* 65-448 ~~and K.S.A. 2020 Supp. 38-2227~~  
9 are hereby repealed.

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