



Kansas Bureau of Investigation

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Proponent Testimony on House Bill 2228
Presented to the House Judiciary Committee
By Robert Jacobs, Executive Officer
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Representative Patton and Members of the Committee:

My name is Robert Jacobs and I serve as the Executive Officer of the Kansas Bureau of Investigation (KBI). Thank you for the opportunity to present testimony in favor of HB 2228. HB 2228 will address recommendations proposed through the Kansas Sexual Assault Kit Initiative (SAKI) as well as amend provisions within K.S.A. 65-448 that are outdated and do not follow national best practices regarding sexual assault evidence collection. Additionally, HB 2228 will seek to provide better access to sexual assault examinations and treatment for victims of sexual assault who have to travel significant distances to be examined and to have sexual assault evidence collected by specially trained forensic nurses and medical staff.

In 2014, the KBI began the SAKI program to determine the number of sexual assault kits (also known as “rape kits”) that had been collected by forensic nurses and turned over to law enforcement but, for various reasons, had not been submitted to a forensic laboratory for testing. These kits represent sexual assault evidence which was collected through a report of sexual assault to law enforcement. These kits remained in evidence property rooms at law enforcement agencies rather than being tested for evidence of a crime.

Approximately 2,200 unsubmitted sexual assault kits were discovered throughout Kansas. From 2015 through 2019, the KBI worked with local law enforcement to have those kits submitted to a forensic laboratory for analysis. As of today, the majority of those kits have been examined and the results have been reported to the submitting agency. Only approximately 21 kits remain within the KBI laboratory system. Each of those kits are in the final stage of the reporting process.

During the effort to identify the outstanding kits, a multi-disciplinary team (SAKI committee) was created to identify issues related to the SAKI project and make subsequent policy recommendations¹. The catalyst for HB 2228 was, in part, due to these recommendations.

Although the focus of the SAKI committee was the sexual assault kits in which the victim reported the incident to law enforcement, the SAKI group also discussed issues surrounding unreported sexual assault kits. An unreported kit is one in which the victim has evidence collection done through a medical provider, but chooses to not report the assault to law enforcement.

¹ See KBI Kansas Sexual Assault Kit Initiative Website, <http://www.kansas.gov/kbi/saki.shtml>

Unreported sexual assault kits are anonymous and sent directly to the KBI Laboratory, where they are stored for 5 years. Per K.S.A 65-448, at the end of the 5 years the unreported sexual assault kits are destroyed. During the five years the unreported kits are not tested, but are retained in the event the victim chooses to make a law enforcement report at a later date. If a victim subsequently chooses to make a law enforcement report, the law enforcement agency contacts the KBI lab and, through the use of a unique identifying number, requests the kit be converted to a reported sexual assault kit and examined.

Three recommendations that came from the SAKI group included: 1.) the importance of submitting all sexual assault kits associated with a law enforcement report of sexual assault; 2.) completing examinations on all reported sexual assault kits submitted to the laboratory; and 3.) increasing the number of years an unreported sexual assault kit is retained by the KBI from 5 years to 20 years.

Submit All Sexual Assault Kits:

Approximately 33 Sexual Assault Nurse Exam (SANE) programs are located throughout the State of Kansas. Of those 33 programs, on average, 19 of them report data regarding the number of sexual assault exams completed on both children and adults per year. In the last five years the SANE programs have reported the following data metrics for sexual assault exams associated with a report to law enforcement:

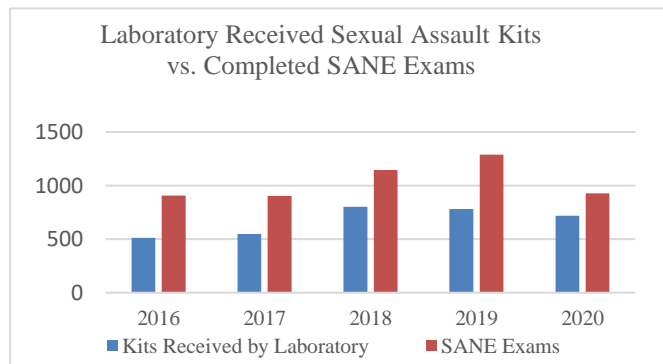
SANE Program Exams Conducted:

- 2016 905
- 2017 902
- 2018 1,144
- 2019 1,290
- 2020 928

A review of reported sexual assault kits received by the three forensic laboratories (Johnson County Criminalistics Laboratory, Sedgwick County Regional Forensic Science Center, and the KBI Laboratory) during the same time allotment identified the following metrics:

Reported Sexual Assault Kits Received by Labs:

- 2016 512
- 2017 549
- 2018 803
- 2019 781
- 2020 718



Section 1 of HB 2228 would address the issue of unsubmitted sexual assault kits by requiring law enforcement agencies to adopt policies that require the submission of sexual assault kits to an accredited forensic laboratory within 30 business days. This policy, which should be developed

in conjunction with the agency's respective county or district attorney's office, should also include a procedure in which the investigating officer receives the examination results of the sexual assault kits. It is important that the investigating officer receive the results to further the investigative process and the eventual identification and apprehension of the subject.

Test All Sexual Assault Kits:

The examination of sexual assault kits submitted to the laboratory is obviously critical to the identification of offenders to include serial offenders. Section 3 of HB 2228 requires that sexual assault kits received by either the Johnson County 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.

Increased Retention of Unreported Kits:

When K.S.A. 65-448 was created the statute of limitations for most sexual assault crimes, to include the crime of rape, was five years. Since then the statute of limitations has been either extended or eliminated altogether in many sexual assault crimes. As such, the amount of time unreported sexual assault kits are retained should be extended. According to the National Institute of Justice publication: National Best Practices for Sexual Assault Kits, unreported Sexual Assault Kits should be retained for at least the statute of limitations or a maximum of 20 years². In 2013, Kansas eliminated the statute of limitation for the crime of rape. Extending the retention of unreported sexual assault kits up to 20 years is also consistent with the federal Survivors Bill of Rights Act of 2016³ and serves in the best interests of the victim. The KBI has been receiving unreported sexual assault kits since 2015. During this time, the KBI laboratory has received approximately 869 unreported kits.

Access to Victim Services:

One additional goal of HB 2228 is to increase access to sexual assault exams. By amending the language in K.S.A. 65-448 to allow evidence collection to be done by specially trained medical personnel within Child Advocacy Centers as well as medical facilities, the accessibility of services available to victims will increase. There are, unfortunately, areas in Kansas where sexual assault victims have to travel some distance to find a facility where trained personnel are located and services for victims are available.

The purpose of this change is to increase accessibility of medical providers and services for victims. After the bill was drafted it was discovered that under Section 3(a)(1)(B) the language of this section could inadvertently restrict or prohibit sexual assault exams being conducted at a physician's office or other facilities in which medical personnel are licensed but the facility itself is not licensed. **We propose the following amendment to Sec. 3(a)(1)(B):**

(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's assistant, or registered nurse licensed** pursuant to chapter 65 of the Kansas States Annotated, and amendments thereto, may examine persons who may be victims of sexual assault.

² See National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach p. 71, [National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach \(ojp.gov\)](#)

³ See Survivors Bill of Rights Act of 2016 p.2, [PUBL236.PS \(congress.gov\)](#)

This amendment will include sexual assault exams and evidence collection be permissible at either licensed facilities or by licensed medical personnel.

HB 2228 will align Kansas Statutes regarding sexual assault evidence collection with national best practices, is consistent with the federal Survivors Bill of Rights, and will increase accessibility to sexual assault victim services within the State of Kansas.

The KBI appreciates your consideration of HB 2228 and recommends the passage of this bill. Thank you for your consideration of this testimony.