

HB 2228
House Judiciary Committee
February 15, 2021

PROPONENT

Chairman Patton and Members of the House Judiciary Committee:

On behalf of the Kansas Coalition Against Sexual and Domestic Violence (KCSDV), I provide this testimony in **SUPPORT** of HB 2228.

KCSDV is a coalition of private, non-profit sexual assault and domestic violence victim advocacy organizations located across Kansas that provide direct services to victims, survivors, and their families. In state fiscal year 2020, these organizations served 69,600 people and responded to over 39,600 crisis hotline calls.

KCSDV worked collaboratively on the Kansas Sexual Assault Kit Initiative (SAKI), and now the Kansas Sexual Assault Response Advisory Committee (K-SARAC). These state-level efforts involve all stakeholders in sexual assault response with the purpose of facilitating cross-discipline collaboration and improving practices in sexual assault response that increase victim safety and offender accountability.

HB 2228 accomplishes critical improvements to Kansas' response to sexual assault. These needed improvements were identified as part of the state-level efforts to improve response and are consistent with the recommendations that resulted from the Kansas SAKI project findings. Each of the improvements HB 2228 accomplishes is detailed below.

- 1. Ensure all sexual assault kits that correspond to a law enforcement report of sexual assault are submitted to a forensic laboratory for examination.**

Through the Kansas SAKI project, we quickly learned the value and importance of testing evidence contained in a sexual assault kit. Through the KBI's efforts of gathering and testing the 2,200 sexual assault kits that had been sitting for years in law enforcement property rooms across Kansas, the identification of serial violent and sex offenders became a central focus.

Sex offenders have a clear impact on public safety. Of the 2,200 sexual assault kits identified as part of the SAKI project, **907 suspects** were identified with a trackable criminal history. Of those suspects, **a total of 7,302 sexual and other violent offenses** were identified in these suspects' criminal histories. Ninety-three percent of these suspects had a criminal history of

other violent offenses, including: homicide, battery, domestic violence, burglary/robbery, assault, criminal threat, disorderly conduct, weapons violation, and battery/assault on a law enforcement officer. Forty-two percent of these suspects had a criminal history of additional sexual offenses, including: rape, indecent liberties with a minor, sexual battery/assault, and sodomy.¹ These sexual assault kits would have never been tested had it not been for the Kansas SAKI project and the KBI requesting Kansas law enforcement agencies submit them to the lab for testing.

One might ask: *Why does a backlog of unsubmitted sexual assault kits exist? Why wouldn't law enforcement submit these kits to a lab for examination right away?* Nationally, the backlog of untested sexual assault kits represents the failure of systems to take sexual assault and rape seriously, to believe victims, to prioritize the testing of sexual assault kits, to understand the value of uploading suspect DNA profiles into CODIS (the federal Combined DNA Index System), to protect victims, and to hold offenders accountable.

Sexual assault and rape are of the most underreported crimes. In the United States, about 1 in 5 women and 1 in 71 men have experienced completed or attempted rape in their lifetime.² The majority of victims – female and male – experienced this before age 25.³ However, of 1,000 rapes committed, less than 250 are reported to law enforcement. Less than 50 of those reports lead to arrest; less than 10 offenders are ever convicted; and less than 5 offenders are ever incarcerated.⁴ Only 13% of rapes reported to Kansas law enforcement result in an arrest.⁵

When victims do report rape and sexual assault to law enforcement, and also go through the uncomfortable and invasive process of a 4 – 6 hour sexual assault exam where evidence is collected from the most intimate parts of one's body, they are doing so under the assumption that the evidence collected will be tested and used for the criminal investigation or prosecution. When they are later told their case will not proceed because of lack of evidence, and then find out the sexual assault kit was never even submitted to a lab for testing, the discouragement of victims reporting these crimes to law enforcement continues.

2. Expand access to sexual assault exams for victims.

Sexual Assault Nurse Examiner (SANE) programs are located in only 21 of Kansas' 105 counties. There are two purposes of the sexual assault exam: 1) provide medical care to the sexual assault patient; and 2) collect evidence of the crime. Many SANE programs operate at very

¹ Kansas Bureau of Investigation, *Kansas Sexual Assault Kit Initiative Sex Offender Behavior Research and Importance of Holding Offenders Accountable*, 2018.

² Smith, S.G., Zhang, X., Basile, K.C., Merrick, M.T., Wang, J., Kresnow, M., Chen, J. (2018). *The National Intimate Partner and Sexual Violence Survey (NISVS): 2015 Data Brief – Updated Release*. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.

³ *Id.*

⁴ Lonsway KA, Archambault J. The "Justice Gap" for Sexual Assault Cases: Future Directions for Research and Reform. *Violence Against Women*. 2012;18(2):145-168.

⁵ Kansas Bureau of Investigation, *Domestic Violence, Stalking, and Sexual Assault in Kansas As Reported by Law Enforcement Agencies*, 2019.

limited capacity, sometimes with only one or two SANE trained medical professionals. Surrounding counties often transport victims to these sites for sexual assault exams, putting a strain on already limited resources. It is not uncommon for victims to have to travel several hours for a sexual assault exam, or to simply be turned away because no one at their local hospital emergency department is trained to perform these exams. These victims never receive the medical care and services they need, and the evidence of the crime is lost.

Although recent efforts began to train more hospital emergency department personnel on performing sexual assault exams, access to sexual assault exams in Kansas must be expanded. Child Advocacy Centers, doctor's offices, clinics, and health departments are all appropriate facilities for these exams to take place when they employ the appropriately trained medical professionals detailed in current law. By increasing access to sexual assault exams, we are also increasing victims' access to services and support.

3. Extend the retention of unreported sexual assault kits by the KBI from 5 to 20 years.

Delayed reporting of sexual assault and rape is not uncommon. Over the past couple of years, as the #MeToo movement has grown and national figures such as Harvey Weinstein, Bill Cosby, or Jeffrey Epstein have faced allegations of sexual assault from women they knew years ago, one question has continued to come up: *Why would someone wait so long to come forward?*

There are a wide range of reasons people do not report sexual assault and rape to authorities at the time of assault, and oftentimes, even hide them from friends and family. The majority of rapes are committed by someone the victim knows (80% in Kansas⁶). Self-blame and self-doubt are not uncommon for victims of these crimes. We live in a society where the victim is often blamed for where they were, who they were with, what they were doing, or what they were wearing. When we question victims' responsibility for their own rape, we deflect blame from the offender and treat the crime as though it should be expected. Rape is never the victim's fault, and offenders of these crimes must be held accountable. Studies show that shame, guilt, and embarrassment are also strong deterrents. This is especially true for boys and men. Finally, fear of not being believed is among the strongest deterrent to reporting rape.

According to the National Institute of Justice, "Unreported sexual assaults should be retained for at least the statute of limitations or a maximum of 20 years."⁷ This is also consistent with the federal Survivors' Bill of Rights Act of 2016 to provide the victim sufficient time to consider whether to pursue reporting to law enforcement.⁸

⁶ Kansas Bureau of Investigation, *Domestic Violence, Stalking, and Sexual Assault in Kansas As Reported by Law Enforcement Agencies*, 2019.

⁷ U.S. Department of Justice, Office of Justice Programs, National Institute of Justice. *National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach*, April 2017.

⁸ See Survivors' Bill of Rights Act of 2016, P.L. 114-236; and 18 U.S.C. 3772, Chap. 238.

Kansas law gives adult victims the ability to have a sexual assault exam whether or not they decide to report to law enforcement. This allows for the preservation of the evidence should the victim decide to report the crime at a later time. Currently, “unreported” sexual assault kits are only stored for 5 years and then destroyed. However, the statute of limitations for rape in Kansas was eliminated in 2013. Should a victim report the rape beyond 5 years post-assault, the sexual assault evidence would no longer be available for the investigation or prosecution.

Sexual assault exam evidence increases the likelihood of identifying the perpetrator, increases the likelihood of holding perpetrators accountable, and can help prevent future sexual assaults from occurring by linking or connecting the perpetrator to other crimes. By increasing the retention of unreported sexual assault kits, we are providing victims sufficient time to consider whether to report to law enforcement and are providing law enforcement and prosecutors the tools they need to improve criminal justice outcomes.

I strongly urge you to support HB 2228. Doing so shows your support for victim safety, offender accountability, and increasing public safety for all Kansans.

Respectfully submitted,



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