



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

DATE: February 09, 2022

TO: Senator Floyd Prozanski
Chair of the Senate Committee on Judiciary and Ballot Measure 110
Implementation

FROM: Kimberly McCullough, Legislative Director
Oregon Department of Justice

SUBJECT: SB 1574 - Melissa's Law

This testimony is presented in support of SB 1574 with the -1 amendments.

Background

In the State of Oregon, the Sexual Assault Victim Emergency Medical Response (SAVE) fund, administered by the Oregon Department of Justice, Crime Victims and Survivors' Assistance Division (CVSSD), pays for a medical assessment, which includes the collection of forensic evidence.

A victim of sexual assault who receives a medical assessment provides information to a Sexual Assault Nurse Examiner (SANE) or Sexual Assault Examiner (SAE) about the details of their assault. The examiner documents the victim's account along with their injuries and collects forensic evidence for testing. A Sexual Assault Forensic Evidence Kit (SAFE Kit) is used to collect and preserve sexual assault evidence. After the medical assessment, the medical facility sends the SAFE Kit to the Department of State Police.

Survivors of sexual assault who seek care from a SANE or SAE typically assume that any evidence collected and written documentation completed by the examiner is stored in the SAFE Kit following the medical-forensic exam.

However, under current law, the medical examiner's notes and documentation are not explicitly required to be part of the forensic evidence kit, and so are not required to be transmitted to the Department of State Police with the forensic evidence, nor are they required to be preserved as part of the SAFE Kit. Medical facilities have their own retention policies, and they are not subject to the preservation period for SAFE Kits, which is 60 years.

This logistical flaw may prevent some examiners from including a copy of the medical forensic examination form in the SAFE Kit, which poses evidentiary issues if a case moves forward for trial. As a result, the medical assessment documentation may be unavailable when needed for an investigation or prosecution, or to assist a victim who chooses to make a report some matter of time after the assault.

Concept

SB1574-1 amends the statutory definition of Oregon’s Sexual Assault Forensic Evidence (SAFE) Kit” to explicitly include the chart prepared by the sexual assault nurse examiner, including their examination notes. This simple change will explicitly require that information to be transmitted to the Department of State Police and be preserved as part of the kit, per ORS 181A.325, for storage and/or processing.

Sexual Assault Nurse Examiners/Sexual Assault Examiners rely on this form when they prepare for testimony, as trials can take place years after the initial exam. SB1574-1 will not impact a survivor’s ability to make an anonymous report and still receive comprehensive medical care. Privacy protections and informed consent are in place to ensure the Survivor has control of their own story and experience.

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