

ONE HUNDRED SIXTH LEGISLATURE - SECOND SESSION - 2020
COMMITTEE STATEMENT
LB43

Hearing Date: Friday February 22, 2019
Committee On: Judiciary
Introducer: Bolz
One Liner: Adopt the Sexual Assault Survivors' Bill of Rights Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	6	Senators Chambers, DeBoer, Lathrop, Morfeld, Pansing Brooks, Wayne
Nay:		
Absent:		
Present Not Voting:	2	Senators Brandt, Slama

Oral Testimony:

Proponents:

Senator Kate Bolz
Robert Sanford
Amanda Novotny
Miriam Joelson
Kristen Tomjack

Maggie Ballard
Garrett Conte
Madelynn Carbaugh
Sara Riffel
Amanda Timmerman
Sherry Helmke
Sydney Butler
Suzannah Rogan
Alexis Steele
Judy King
Angie Lauritsen
Elena Salisbury
Christon MacTaggart

Representing:

Introducer
Nebraska Coalition to End Sexual & Domestic Violence
Womens Center for Advancement
RiseNow.Us
National Association of Social Workers Nebraska Chapter
Heartland Family Service
UNL Young Democrats
Self
Self
Nebraska Alliance of Child Advocacy Centers
Survivors Rising
Self
Self
Immigrant Legal Center
Self
Survivors Rising
Self
Women's Fund of Omaha

Opponents:

Spike Eickholt
Gregory Lauby

Representing:

Nebraska Criminal Defense Attorneys Association
Self

Neutral:

Representing:

Summary of purpose and/or changes:

LB43 would provide certain rights for victims of sexual assault related to physical examinations, interviews, or depositions arising out of the assault.

Section 2 provides definitions for the terms "advocate," "health care provider," "sexual assault," "sexual assault forensic evidence," "sexual assault survivor," and "survivor."

Section 4 would provide that a claim that certain communication with a sexual assault victim is privileged would not be waived based on the presence of other individuals, so long as the victim has a basis to claim a privilege as to each of the other individuals and the communication and the communication is "in furtherance of assisting the survivor to overcome the sexual assault."

Section 5 would provide that a person accused or convicted of a crime against the victim has standing to object or otherwise seek relief based on noncompliance with provisions of this LB43.

Section 6 would provide a survivor the right to be accompanied by an advocate from a victim or witness assistance center during a medical evidentiary or physical examination. This section would also clarify that a victim is entitled to have forensic medical examination costs to be paid pursuant to Sec. 81-1429.03 without regard to whether the survivor participates in the criminal justice system or cooperates with law enforcement.

Section 7 would provide a survivor the rights to consult with an advocate and an attorney during an interview or deposition. This section would also provide a survivor the right to be interviewed by a peace officer of the gender of their choosing that speaks their preferred language or has a qualified interpreter available.

Section 8 would provide survivors the right to prompt analysis and processing of sexual assault forensic evidence and information from law enforcement about the status and results of such testing.

Section 9 would prohibit sexual assault forensic evidence from being used against the victim in the investigation or prosecution of any misdemeanor or violation of the Uniform Controlled Substances Act.

Section 10 would provide a survivor the right to be protected in any civil or criminal proceeding from the perpetrator of the sexual assault.

Section 11 would prohibit law enforcement from disclosing the name and identifying information of a survivor, except as necessary prosecute the crime or carry out the rights in LB43. This subsection would also provide that the identities of victims are not public records.

Section 12 would require health care providers and peace officers to provide survivors of sexual assault with a statement of their rights.

Explanation of amendments:

AM2037 would replace the original bill.

Sections 3, 5, 10, 11 of the original bill are removed.

Section 2 contains a new definition of "advocate" and "sexual assault survivor."

Section 4 and 5 no longer contain a right to consult with an advocate, but retain the right to have an advocate present during examinations and interviews.

Section 6 no longer contains a requirement that law enforcement reports provided to survivors be provided free of charge.

Section 9 is new and would require prosecutors to consult with survivors before reaching a plea agreement.

Section 10 and 11 are new and would make changes to the rules of criminal procedure to include references to

advocates attending criminal depositions and depositions of child victims.

Steve Lathrop, Chairperson