SLS 22RS-113 ORIGINAL

2022 Regular Session

SENATE BILL NO. 147

BY SENATOR MIZELL

1

SEX OFFENSES. Provides for sexual assault survivors to have access to certain documents from the forensic medical exam. (8/1/22)

AN ACT

| 2  | To amend and reenact R.S. 40:1216.1(G) and to enact R.S. 40:1216.1(H), relative to      |
|----|---|
| 3  | procedures for victims of sex offenses; to require that healthcare providers make       |
| 4  | certain records available to sexual assault survivors; to provide relative to documents |
| 5  | requested by the victim after a forensic medical examination has been performed;        |
| 6  | and to provide for related matters.   |
| 7  | Be it enacted by the Legislature of Louisiana:  |
| 8  | Section 1. R.S. 40:1216.1(G) is hereby amended and reenacted and R.S.                   |
| 9  | 40:1216.1(H) is hereby enacted to read as follows:                                      |
| 10 | §1216.1. Procedures for victims of a sexually-oriented criminal offense; immunity;      |
| 11 | regional plans; maximum allowable costs; definitions; documents                         |
| 12 | requested by victim   |
| 13 | * * *   |
| 14 | G. (1) Whether or not the adult victim chooses to report the offense, the               |
| 15 | healthcare provider shall make a report containing the following items                  |
| 16 | available, if requested by the victim, within ten days of the examination, or as        |
| 17 | soon as available, but no later than one hundred twenty days from the date of           |

| 1  | the examination:  |
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| 2  | (a) Examination of physical trauma.   |
| 3  | (b) Patient interview, including medical history, triage, and consultation.               |
| 4  | (c) Photographic documentation.   |
| 5  | (d) When determined necessary by the healthcare provider, results of an                   |
| 6  | alcohol-and-drug-facilitated sexual assault assessment and toxicology screening.          |
| 7  | (2) The items provided for in this Subsection shall be made available at                  |
| 8  | no cost to the victim and may only be released to the victim. This release does           |
| 9  | not invalidate the victim's reasonable expectation of privacy nor does the record         |
| 10 | become a public record after the release to the victim.                                   |
| 11 | <b><u>H.</u></b> For purposes of this Section the following definitions apply:            |
| 12 | (1) "Forensic medical examination" has the same meaning as defined in R.S.                |
| 13 | 15:622.   |
| 14 | (2) "Healthcare provider" means either of the following:                                  |
| 15 | (a) A physician or other healthcare practitioner licensed, certified, registered,         |
| 16 | or otherwise authorized to perform specified healthcare services consistent with state    |
| 17 | law.  |
| 18 | (b) A facility or institution providing healthcare services, including but not            |
| 19 | limited to a hospital or other licensed inpatient center, ambulatory surgical or          |
| 20 | treatment center, skilled nursing facility, inpatient hospice facility, residential       |
| 21 | treatment center, diagnostic, laboratory, or imaging center, or rehabilitation or other   |
| 22 | therapeutic health setting.   |
| 23 | (3) "Healthcare services" means services, items, supplies, or drugs for the               |
| 24 | diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, |
| 25 | or disease ancillary to a sexually-oriented criminal offense.                             |
| 26 | (4) "Sexually-oriented criminal offense" has the same meaning as defined in               |
| 27 | R.S. 15:622.  |

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Whitney Kauffeld.

## DIGEST 2022 Regular Session

Mizell

SB 147 Original

<u>Present law</u> provides that a healthcare provider must treat any patient who presents themselves for treatment as a victim of a sexually-oriented criminal offense and conduct forensic medical exams and preserve any evidence obtained for law enforcement to collect.

## Proposed law retains present law.

<u>Proposed law</u> permits the victim of a sexually-oriented criminal offense to request and receive from a healthcare provider, whether or not the incident was reported to law enforcement, certain documents generated from a forensic medical exam, to include reports written by the sexual-assault nurse examiner (SANE), including examination of physical trauma, patient interview, medical history, triage and consultation, photographic documentation, results from alcohol-and-drug-facilitated sexual assault assessment and toxicology screening.

<u>Proposed law</u> requires that the healthcare provider produce those documents upon request of victim ten days after examination or as soon as available, but no later than 120 days from the date of examination.

<u>Proposed law</u> provides that the items to be provided pursuant to the <u>proposed law</u> are to be provided at no cost to the victim and may only be produced to the victim. <u>Proposed law</u> further provides that these records are not public records.

Effective August 1, 2022.

(Amends R.S. 40:1216.1(G); adds R.S. 40:1216.1(H))