

SENATE COMMITTEE AMENDMENTS

2024 Regular Session

Amendments proposed by Senate Committee on Judiciary B to Original Senate Bill No. 124 by Senator Mizell

1 AMENDMENT NO. 1

2 On page 1, line 2, after "R.S. 40:1216.1" delete the remainder of the line and insert "and R.S.  
3 46:1845,"

4 AMENDMENT NO. 2

5 On page 1, delete line 8 and insert:

6 "Section 1. R.S. 40:1216.1 is hereby amended and"

7 AMENDMENT NO. 3

8 On page 1, delete lines 13 through 17 and delete page 2 and on page 3, delete lines 1 through  
9 21 and insert:

10 "A. All licensed hospitals and healthcare providers in Louisiana shall adhere  
11 to the following procedures ~~in the event that a~~ **if a** person, male or female, presents  
12 ~~himself or herself~~ or is presented for treatment as a ~~victim of a sexually oriented~~  
13 ~~criminal offense~~ **sexual assault survivor**:

14 (1)~~(a)~~ ~~The victim~~ **Except as provided in Subparagraphs (b) and (c) of this**  
15 **Paragraph, a survivor** shall ~~make the decision of~~ **decide** whether or not the incident  
16 will be reported to law enforcement officials. No hospital or healthcare provider shall  
17 require the ~~person~~ **survivor** to report the incident ~~in order~~ to receive medical  
18 attention **or collect evidence**.

19 **(b) If a person under the age of eighteen presents for treatment as a**  
20 **sexual assault survivor, the hospital or healthcare provider shall immediately**  
21 **notify the appropriate law enforcement agency or any other official necessary**  
22 **to fulfill any mandatory report obligation required by law.**

23 **(c) If a survivor is physically or mentally incapable of making the**  
24 **decision to report, the hospital or healthcare provider shall immediately notify**  
25 **the appropriate law enforcement officials.**

26 (2)~~(a)~~ **All sexual assault survivors shall be examined and treated, without**  
27 **undue delay, in a private space required to ensure the health, safety, and**  
28 **welfare of the survivor by a qualified healthcare provider. Examination and**  
29 **treatment, including the forensic medical examination, shall be adapted as**  
30 **needed to address the unique needs and circumstances of each survivor. All**  
31 **survivors shall be afforded an advocate whose communications are privileged**  
32 **in accordance with the provisions of R.S. 46:2187, if one is available. With the**  
33 **consent of the survivor, an advocate shall remain in the examination room**  
34 **during the forensic medical examination. With the consent of the survivor, the**  
35 **examination and treatment of all sexual assault survivors shall, at a minimum,**  
36 **including all of the following:**

37 **(a) Examination of physical trauma.**

38 **(b) Patient interview, including medical history, triage, and consultation.**

39 **(c) Collection and evaluation of evidence, including but not limited to**  
40 **the following:**

41 **(i) Photographic documentation.**

42 **(ii) Preservation and maintenance of chain of custody.**

43 **(iii) Medical specimen collection.**

44 **(iv) When determined necessary by the healthcare provider, an alcohol**  
45 **or drug-facilitated sexual assault assessment and toxicology screening.**

46 **(d) Laboratory testing related to the forensic examination when**  
47 **indicated, including drug screening, urinalysis, pregnancy screening, syphilis**

1 screening, chlamydia culture, gonorrhea coverage culture, blood test for HIV  
2 screening, hepatitis B and C, herpes culture, and any other sexually transmitted  
3 disease testing directly related to the forensic examination.

4 (e) Any medication provided during the forensic medical examination,  
5 which may include emergency contraception and HIV or STI prophylaxis.

6 (3)(a) If the survivor wishes to report the incident to law enforcement,  
7 the hospital or healthcare provider shall contact the appropriate law  
8 enforcement agency having jurisdiction over the location where the crime  
9 occurred. If the location cannot be determined, the hospital or healthcare  
10 provider shall contact the law enforcement agency having jurisdiction over the  
11 location where the forensic medical examination is performed to determine the  
12 appropriate investigating agency.

13 (b) Upon completion of the forensic medical examination, the sexual  
14 assault collection kit shall be turned over to the investigating law enforcement  
15 agency. No sexual assault collection kit shall remain at a hospital or medical  
16 facility if the hospital or medical facility is unable to store the sexual assault kit  
17 in a secure location that ensures proper chain of custody. If a hospital or  
18 medical facility has a secure location to store the sexual assault collection kit  
19 that ensures proper chain of custody, the investigating law enforcement agency  
20 shall take possession of the sexual assault collection kit within seventy-two hours  
21 upon notification of completion of the sexual assault collection kit by the  
22 hospital or medical facility. A healthcare provider working for a coroner's  
23 office may store the sexual assault collection kit in a secure location maintained  
24 by the coroner.

25 (4) If the victim survivor does not wish to report the incident to law  
26 enforcement officials, the victim the hospital or healthcare provider shall be  
27 examined and treated as any other patient. Any injuries requiring medical attention  
28 shall be treated in the standard manner. Tests and treatments exclusive to a victim  
29 of a sexually oriented criminal offense shall be explained and offered to the patient.  
30 The patient shall decide whether or not such tests shall be conducted.

31 (b) Any examination and treatment shall include the preservation, in strict  
32 confidentiality, for a period of at least one year from the time the victim is presented  
33 for treatment, of tests or procedures, or both, and samples that may serve as potential  
34 evidence. The patient shall be informed of the length of time for which the  
35 specimens will be preserved. If the victim does not wish to report the incident to law  
36 enforcement authorities, the responsibilities of the hospital or healthcare provider,  
37 beyond medical treatment, shall be limited to the collection of tests, procedures, or  
38 samples that may serve as potential evidence.

39 (c) Any evidence collected shall be assigned a code number, and the hospital  
40 or healthcare provider that performed the forensic medical exam shall maintain code  
41 records for a period of at least one year from the date the victim is presented for  
42 treatment. The hospital or healthcare provider that performed the forensic medical  
43 exam shall assign the code number by affixing to the evidence container a code to  
44 be used in lieu of the victim's identifying information to maintain confidentiality.  
45 The code number contact the appropriate law enforcement agency having  
46 jurisdiction over the location where the forensic medical examination is  
47 performed after it is completed to transfer possession of the unreported sexual  
48 assault collection kit for storage. The unreported sexual assault collection kit  
49 shall not be identified or labeled with the survivor's identifying information.  
50 The hospital or healthcare provider shall maintain a record of the sexual assault  
51 collection kit number in the survivor's record that shall be used for identification  
52 should the victim survivor later choose to report the incident. The healthcare  
53 provider shall provide all information required by the statewide tracking system  
54 operated by the office of state police, pursuant to R.S. 15:624.1 No sexual assault  
55 collection kit shall remain at a hospital or medical facility if the hospital or  
56 medical facility is unable to store the sexual assault kit in a secure location that  
57 ensures proper chain of custody. If a hospital or medical facility has a secure  
58 location that ensures proper chain of custody, the law enforcement agency  
59 having jurisdiction over the location where the forensic medical examination is  
60 performed shall take possession of the unreported sexual assault collection kit  
61 within seventy-two hours upon notification of completion of the sexual assault

1 collection kit by the hospital or medical facility. A healthcare provider working  
2 for a coroner's office may secure the unreported sexual assault collection kit in  
3 a secured location maintained by the coroner. The law enforcement agency  
4 shall not destroy or dispose of an unreported sexual assault collection kit for a  
5 period of at least twenty years after the forensic medical examination was  
6 performed. A healthcare provider working for a coroner's office may store  
7 unreported sexual assault collection kits. If a healthcare provider working for  
8 a coroner's office chooses to store an unreported sexual assault collection kit at  
9 a coroner's office, the healthcare provider shall not destroy or dispose of an  
10 unreported sexual assault collection kit for period of at least twenty years after  
11 the forensic medical examination was performed.

12 ~~(d) For unreported cases, once a code number has been assigned, custody of~~  
13 ~~the evidence shall be transferred to an appropriate criminal justice agency or the~~  
14 ~~local law enforcement agency having jurisdiction in the parish in which the crime~~  
15 ~~occurred or to the appropriate criminal justice agency or local law enforcement~~  
16 ~~agency having jurisdiction in the parish in which the hospital or healthcare provider~~  
17 ~~is located, if the jurisdiction of the crime is unknown, and responsibility for the~~  
18 ~~custody of the evidence shall belong to that criminal justice agency or local law~~  
19 ~~enforcement agency. The law enforcement agency shall retrieve from the hospital or~~  
20 ~~healthcare provider the evidence no later than seven days after receiving notification~~  
21 ~~that a code number has been assigned to the evidence. The hospital or healthcare~~  
22 ~~provider shall coordinate the transfer of the evidence with the criminal justice agency~~  
23 ~~or law enforcement agency in a manner designed to protect its evidentiary integrity.~~  
24 ~~Evidence which is transferred to the custody of the appropriate criminal justice~~  
25 ~~agency or local law enforcement agency shall bear only the code number assigned~~  
26 ~~by the hospital or healthcare provider.~~

27 ~~(3) If the victim wishes to report the incident to law enforcement officials,~~  
28 ~~the hospital staff or healthcare provider shall contact the appropriate law~~  
29 ~~enforcement agency. After the incident has been reported, the victim shall be~~  
30 ~~examined and treated as any other patient, any injuries requiring medical attention~~  
31 ~~shall be treated in the standard manner, and specimens shall be kept for evidence.~~  
32 ~~The evidence shall be turned over to the law enforcement officers when they arrive~~  
33 ~~to assume responsibility for investigation of the incident and in no event shall the~~  
34 ~~evidence remain at the hospital more than seven days after the law enforcement~~  
35 ~~agency receives the notification from the hospital.~~

36 ~~(4)(a) Notwithstanding any other provisions of this Section, if any person~~  
37 ~~seventeen years old or younger presents himself or herself or is presented for~~  
38 ~~treatment as a victim of a sexually oriented criminal offense, the hospital or~~  
39 ~~healthcare provider shall immediately notify the appropriate law enforcement~~  
40 ~~official. The appropriate law enforcement official shall have seven days from the~~  
41 ~~receipt of the notification to retrieve any evidence collected by the hospital pursuant~~  
42 ~~to this Subparagraph.~~

43 ~~(b) The coroner of the parish, the district attorney, appropriate law~~  
44 ~~enforcement officials, hospital personnel, and healthcare providers may develop~~  
45 ~~procedures pursuant to R.S. 15:440.1 through 440.6 to make a videotape of the~~  
46 ~~person provided for in Subparagraph (a) of this Paragraph when a person fourteen~~  
47 ~~years old or younger has been the victim of physical or sexual abuse. The costs of~~  
48 ~~such videotaping may be allocated among the agencies and facilities involved.~~

49 ~~(5) Notwithstanding any other provisions of this Section, if the victim is~~  
50 ~~physically or mentally incapable of making the decision to report, the hospital or~~  
51 ~~healthcare provider shall immediately notify the appropriate law enforcement~~  
52 ~~officials.~~

53 ~~(6)(5) No hospital or healthcare provider shall directly bill a victim survivor~~  
54 ~~of a sexually oriented criminal offense for any healthcare services rendered in~~  
55 ~~conducting a forensic medical examination as provided for in R.S. 15:622. The~~  
56 ~~expenses shall include the following including the healthcare services rendered~~  
57 ~~in accordance with Paragraph (2) of this Subsection and the following:~~

58 ~~(a) Forensic examiner and hospital or healthcare facility services directly~~  
59 ~~related to the exam, including integral forensic supplies.~~

60 ~~(b) Scope procedures directly related to the forensic exam including but not~~  
61 ~~limited to anoscopy and colposcopy.~~

1           ~~(c) Laboratory testing directly related to the forensic examination, including~~  
2 ~~drug screening, urinalysis, pregnancy screening, syphilis screening, chlamydia~~  
3 ~~culture, gonorrhea coverage culture, blood test for HIV screening, hepatitis B and C,~~  
4 ~~herpes culture, and any other sexually transmitted disease testing directly related to~~  
5 ~~the forensic examination.~~

6           ~~(d) Any medication provided during the forensic medical examination.~~

7           ~~(7)(6)~~ The healthcare provider who performed the forensic medical exam and  
8 the **hospital or** healthcare facility shall submit a claim for payment for conducting  
9 a forensic medical exam directly to the Crime Victim Reparations Board to be paid  
10 in strict accordance with the provisions of R.S. 46:1822. A **victim survivor** of a  
11 sexually oriented criminal offense shall not be billed directly or indirectly for the  
12 performance of any forensic medical exam. The provisions of this Paragraph shall  
13 not be interpreted or construed to apply to ~~either of the following:~~

14           ~~(a) A healthcare provider billing for any medical services that are not~~  
15 ~~specifically set forth in this Section or provided for diagnosis or treatment of the~~  
16 ~~victim for injuries related to the sexual assault.~~

17           ~~(b) A victim a survivor~~ of a sexually oriented criminal offense seeking  
18 reparations in accordance with the Crime Victims Reparations Act, R.S. 46:1801 et  
19 seq., for the costs for any medical services that are not specifically set forth in this  
20 Section or provided for the diagnosis or treatment of the victim for injuries related  
21 to the sexual assault.

22           ~~(8)(7)~~ The department shall make available to every hospital and healthcare  
23 provider licensed under the laws of this state a pamphlet containing an explanation  
24 of the billing process for services rendered pursuant to this Section. Every hospital  
25 and healthcare provider shall provide a copy of the pamphlet to any person presented  
26 for treatment as a **victim survivor** of a sexually oriented criminal offense.

27           ~~(9)(a)(8)(a)~~ The **victim survivor** shall be provided with information about  
28 emergency contraception which shall be developed and made available electronically  
29 to all licensed hospitals in this state through the Louisiana Department of Health's  
30 website and by paper form upon request to the department.

31           (b) The treating healthcare provider shall inform the **victim survivor** of the  
32 option to be provided emergency contraception at the hospital or healthcare facility  
33 and, upon the completion of a pregnancy test yielding a negative result, shall provide  
34 emergency contraception upon the request of the **victim survivor**.

35           B.(1) These procedures shall constitute minimum standards for the operation  
36 and maintenance of hospitals under the provisions of this Part and failure to comply  
37 with the standards shall constitute grounds for denial, suspension, or revocation of  
38 license under provisions of this Part.

39           (2) Failure to comply with the provisions of this Section may constitute  
40 grounds for denial, suspension, or revocation of the healthcare provider's license by  
41 the appropriate licensing board or commission.

42           C. When a licensed hospital or healthcare provider fails to examine and treat  
43 a person, ~~male or female~~, who has presented ~~himself or herself~~ or who has been  
44 presented as a **victim survivor** of a sexually oriented criminal offense, the coroner  
45 of the parish or his designee shall examine the alleged victim and, if necessary, make  
46 arrangements for the treatment of the **victim survivor**. The coroner may select the  
47 hospital or healthcare provider named as the lead entity for sexual assault  
48 examinations in the regional plan required by this Section as his designee to perform  
49 the forensic medical examination. No coroner shall refuse to examine and assist an  
50 alleged **victim survivor** on the grounds the alleged offense occurred outside of or the  
51 **victim survivor** is not a resident of the jurisdiction. Nothing in this Subsection shall  
52 relieve a licensed hospital or healthcare provider of its obligations under Subsections  
53 A and B of this Section.

54           D.(1) Any member of the hospital staff or a healthcare provider who in good  
55 faith notifies the appropriate law enforcement official pursuant to ~~Paragraphs (A)(4)~~  
56 ~~and (A)(5)~~ **Paragraph (A)(1)** of this Section shall have immunity from any civil  
57 liability that otherwise might be incurred or imposed because of the notification. The  
58 immunity shall extend to participation in any judicial proceeding resulting from the  
59 report.

60           (2) The hospital or healthcare provider staff member who notifies the  
61 appropriate law enforcement official shall document the date, time, and method of  
62 notification and the name of the official who received the notification.

1 (3) On or before January first of each year, each law enforcement agency  
2 shall provide each hospital located in its respective jurisdiction with the name of the  
3 responsible contact person along with the responsible person's contact information  
4 in order to comply with the provisions of this Section.

5 E.(1) The Louisiana Department of Health, through the medical directors of  
6 each of its nine regional health service districts, shall coordinate an annual sexual  
7 assault response plan for each district. Each district shall submit a proposed plan for  
8 review by the secretary no later than November first of each year. An approved plan  
9 shall become effective February first of the following year.

10 (2) When developing the annual response plan, each district shall incorporate  
11 a sexual assault response team protocol to the extent possible; however, at a  
12 minimum, each district shall develop the annual plan to do all of the following:

13 (a) Provide an inventory of all available resources and existing infrastructure  
14 in the region and clearly outline how the resources and infrastructure will be  
15 incorporated in the most effective manner.

16 (b) Clearly outline the entity responsible for the purchase of sexual assault  
17 collection kits and the standards and procedures for the storage of the kits prior to  
18 use in a forensic medical examination.

19 (c) Clearly outline the standards and procedures for a victim survivor to  
20 receive a forensic medical examination, as defined in R.S. 15:622, to ensure access  
21 to such an examination in every parish. The plan shall designate a hospital or  
22 healthcare provider to be the lead entity for sexual assault examinations for adult  
23 victims survivors and a hospital or healthcare provider to be the lead entity for  
24 sexual assault examinations for pediatric victims survivors. The plan shall also  
25 include specific details directing first responders in the transport of victims  
26 survivors of a sexually-oriented crime, the appropriate party to perform the forensic  
27 medical examination, and any required training for a person performing a forensic  
28 medical examination.

29 (d) Clearly outline the standards and procedures for the handling and  
30 payment of medical bills related to the forensic medical examination to clarify and  
31 ensure that those standards and procedures are in compliance with this Section and  
32 any other applicable section of law.

33 (e) Clearly outline the standards and procedures for the transfer of sexual  
34 assault collection kits for both reported and unreported crimes to an appropriate  
35 criminal justice agency or the local law enforcement agency having jurisdiction in  
36 the parish in which the crime was committed, if known, or if unknown, to an  
37 appropriate criminal justice agency or the local law enforcement agency having  
38 jurisdiction in the parish in which the hospital or healthcare provider is located. The  
39 plan shall include a maximum time period for the transfer to occur not to exceed  
40 seven days after the criminal justice agency or local law enforcement agency  
41 receives a request for the transfer from the hospital or healthcare provider.

42 (3) When developing the annual response plan, the department shall solicit  
43 the input of interested stakeholders in the region including but not limited to all of  
44 the following:

45 (a) The sheriff for each parish within the region.

46 (b) The chief of police for any political subdivision located within the region.

47 (c) All hospitals located within the region.

48 (d) The coroner for each parish within the region.

49 (e) First responder organizations located within the region.

50 (f) Higher education institutions located within the region.

51 (g) The school board for each parish located within the region.

52 (h) Sexual assault advocacy organizations and children's advocacy centers  
53 providing services within the region.

54 (i) The district attorney for each parish within the region or his designee.

55 (j) Each crime lab located within the region.

56 (4) The annual response plan shall be approved by the stakeholders as  
57 provided for in Paragraph (3) of this Subsection.

58 F. All sexual assault collection kits used in a forensic medical examination  
59 shall meet the standards developed by the Louisiana Department of Health and the  
60 Department of Public Safety and Corrections.

61 G.(1) Upon request of a competent adult victim survivor of a sexually  
62 oriented criminal offense, the healthcare provider that performed the forensic

1 medical exam shall provide a reproduction of any written documentation which is  
2 in the possession of the healthcare provider resulting from the forensic medical exam  
3 of the victim. The documentation shall be provided to the **victim survivor** no later  
4 than fourteen days after the healthcare provider receives the request or the healthcare  
5 provider completes the documentation, whichever is later.

6 (2) The reproduction of written documentation provided for in this  
7 Subsection shall be made available at no cost to the **victim survivor** and may only  
8 be released at the direction of the victim who is a competent adult. This release does  
9 not invalidate the **victim's survivor's** reasonable expectation of privacy nor does the  
10 record become a public record after the release to the **victim survivor**.

11 H. For purposes of this Section the following definitions apply:

12 (1) "Emergency contraception" means only drugs approved by the United  
13 States Food and Drug Administration with mechanisms of action that likely include  
14 the prevention of ovulation, sperm capacitation, or fertilization after sexual  
15 intercourse and do not meet the definition of a legend drug as defined in R.S.  
16 40:1060.11.

17 (2) "Forensic medical examination" has the same meaning as defined in R.S.  
18 15:622.

19 (3) "Healthcare provider" means either of the following:

20 (a) A physician, **sexual assault nurse examiner**, or other healthcare  
21 practitioner licensed, certified, registered, or otherwise authorized **and trained** to  
22 perform ~~specified healthcare services consistent with state law~~ **a forensic medical**  
23 **examination**.

24 (b) A facility or institution providing healthcare services, including but not  
25 limited to a hospital or other licensed inpatient center; ambulatory surgical or  
26 treatment center; skilled nursing facility; inpatient hospice facility; residential  
27 treatment center; diagnostic, laboratory, or imaging center or rehabilitation or other  
28 therapeutic health setting.

29 (4) "Healthcare services" means services, items, supplies, or drugs for the  
30 diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury,  
31 or disease ancillary to a sexually oriented criminal offense.

32 (5) " Sexually oriented criminal offense" has the same meaning as defined in  
33 R.S. 15:622.

34 **(6) "Sexual assault collection kit" includes all evidence collected during**  
35 **a forensic medical examination.**

36 **(7) "Unreported sexual assault collection kit" means a sexual assault**  
37 **collection kit where a law enforcement agency has not received a related report**  
38 **or complaint alleging that a sexual assault has occurred."**