

2015 Regular Session

HOUSE BILL NO. 289

BY REPRESENTATIVE GISCLAIR AND SENATOR MORRELL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HEALTH/MEDICAL TREATMENT: Provides relative to the collection of certain evidence from victims of rape offenses

1 AN ACT
2 To amend and reenact R.S. 40:2109.1(A)(introductory paragraph) and (2), (3), and (4)(a)
3 and (D) and to enact R.S. 15:623, relative to evidence collected from victims of rape
4 offenses; to require submission of a sexual assault collection kit within a certain
5 period of time; to require retrieval of evidence by local law enforcement within a
6 certain period of time; to provide for notification of evidence to law enforcement;
7 and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 15:623 is hereby enacted to read as follows:

10 §623. Submission of sexual assault collection kits

11 Each criminal justice agency shall submit any sexual assault collection kit
12 involving an unknown suspect and any sexual assault collection kit for which an
13 official request for analysis has been made by a prosecuting agency no later than
14 thirty days after receipt of the sexual assault collection kit.

15 Section 2. R.S. 40:2109.1(A)(introductory paragraph) and (2), (3), and (4)(a) and (D)
16 are hereby amended and reenacted to read as follows:

1 §2109.1. Procedures for rape victims; emergency rooms of licensed hospitals;
2 immunity

3 A. All licensed hospitals in Louisiana shall adhere to the following
4 procedures in the event that a person, male or female, presents himself or herself or
5 is presented at the hospital for treatment as a victim of rape, attempted rape, carnal
6 knowledge, or crime against nature:

7 * * *

8 (2) If the victim does not wish to report the incident to law enforcement
9 officials, the victim shall be examined and treated as a regular emergency room
10 patient. Any injuries requiring medical attention shall be treated in the standard
11 manner. Tests and treatments exclusive to a rape victim shall be explained to the
12 patient, ~~along with the costs for such tests.~~ The patient shall decide whether or not
13 such tests shall be conducted. Any examination and treatment shall include the
14 preservation, in strict confidentiality, for a period of thirty days from the time the
15 victim is presented for treatment, of tests or procedures, or both, and samples that
16 may serve as potential evidence. The patient shall be informed of the length of time
17 for which the specimens will be preserved. If the victim does not wish to report the
18 incident to law enforcement authorities, the hospital's responsibilities, beyond
19 medical treatment, shall be limited to the collection of tests, procedures, or samples
20 that may serve as potential evidence. Any evidence so collected shall then be
21 assigned a code number and the hospital shall maintain code records for a period of
22 thirty days from the date the victim is presented for treatment, said code records to
23 be used for identification should the victim later choose to report the incident. Once
24 a code number has been assigned, custody of such evidence shall be transferred to
25 the local law enforcement agency having jurisdiction in the parish in which the
26 hospital is located, and responsibility for the custody of such evidence shall belong
27 to that law enforcement agency. The local law enforcement agency shall retrieve the
28 evidence no later than seven days after receiving notification that a code number has
29 been assigned to the evidence. The hospital shall coordinate the transfer of such

1 evidence with the local law enforcement agency in a manner designed to protect its
2 evidentiary integrity. Evidence which is transferred to the custody of the appropriate
3 law enforcement agency shall bear only the code number assigned by the hospital.

4 (3) If the victim wishes to report the incident to law enforcement officials,
5 the hospital staff shall contact the appropriate law enforcement agency. After the
6 incident has been reported, the victim shall be examined and treated as a regular
7 emergency room patient, any injuries requiring medical attention will be treated in
8 the standard manner, and specimens shall be kept for evidence. Such evidence shall
9 be turned over to the law enforcement officers when they arrive to assume
10 responsibility for investigation of the incident and in no event shall the evidence
11 remain at the hospital more than seven days after the law enforcement agency
12 receives the notification from the hospital.

13 (4)(a) Notwithstanding any other provisions of this Section, if any person
14 sixteen years old or younger presents himself or is presented at a licensed hospital
15 for treatment as a victim of any of the alleged crimes listed in this Section, the
16 hospital staff shall immediately notify the appropriate law enforcement official. The
17 appropriate law enforcement official shall have seven days from the receipt of the
18 notification to retrieve any evidence collected by the hospital pursuant to this
19 Subparagraph.

20 * * *

21 D.(1) Any member of the hospital staff who in good faith notifies the
22 appropriate law enforcement official pursuant to Paragraphs (4) and (5) of
23 Subsection (A) of this Section shall have immunity from any civil liability that
24 otherwise might be incurred or imposed because of such notification. Such
25 immunity shall extend to participation in any judicial proceeding resulting from such
26 report.

27 (2) The hospital staff member who notifies the appropriate law enforcement
28 official shall document the date, time, and method of notification and the name of
29 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 in a timely manner.

5 Section 3. This Act shall become effective upon signature by the governor or, if not
6 signed by the governor, upon expiration of the time for bills to become law without signature
7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
8 vetoed by the governor and subsequently approved by the legislature, this Act shall become
9 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 289 Engrossed

2015 Regular Session

Gisclair

Abstract: Establishes maximum periods of time for the transfer to a law enforcement agency of evidence collected by a hospital from a victim of a rape offense.

Proposed law requires a criminal justice agency to submit, no later than 30 days after receipt of a sexual assault collection kit, any kit involving an unknown suspect and any kit for which a prosecuting agency has made an official request for analysis.

Present law provides the procedures for the treatment of and collection of evidence from victims of a rape offense.

Proposed law retains present law but prohibits a hospital from discussing with the victim the costs for tests and treatments rendered as a result of the rape offense.

Present law requires the hospital, if the offense is not reported to police, to collect and preserve evidence for a period of thirty days by assigning a code number to the evidence to maintain confidentiality. Further requires custody of the evidence to be transferred to a local law enforcement agency having jurisdiction once the code number is assigned.

Proposed law retains present law and adds a requirement for the local law enforcement agency to retrieve the evidence no later than seven days after receiving notification that a code number has been assigned to the evidence.

Present law requires the hospital, if the offense is reported to police, to transfer evidence collected to law enforcement officers when they arrive to assume responsibility for investigation of the offense.

Proposed law retains present law but prohibits the evidence from remaining at the hospital more than seven days after the law enforcement agency receives notification from the hospital.

Present law requires a hospital to immediately notify the appropriate law enforcement official if any person 16 years old or younger is presented for treatment as a victim of a rape offense.

Proposed law retains present law and adds a requirement for the local law enforcement agency to retrieve the evidence no later than seven days after receiving notification.

Proposed law requires the hospital staff member who notifies the appropriate law enforcement official to document the date, time, and method of notification and the name of the official who received the notification.

Proposed law requires, on or before Jan. 1 of each year, each law enforcement agency to provide each hospital located in its respective jurisdiction with the name of the responsible contact person along with the responsible person's contact information in order to comply with the provisions of proposed law in a timely manner.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 40:2109.1(A)(intro. para.) and (2), (3), and (4)(a) and (D); Adds R.S. 15:623)