

2023 Regular Session

SENATE BILL NO. 169

BY SENATOR MIZELL

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

EVIDENCE. Provides for tracking rape kits from collection through conviction. (8/1/23)

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AN ACT

To amend and reenact R.S. 15:623(A), R.S. 40:1216.1(A)(2)(c) and (7) through (9), and R.S. 46:1802(7) and 1822(C), to enact R.S. 15:624.1 and 46:1802(14) and to repeal R.S. 40:1216.1(A)(10), relative to DNA detection of sexual and violent offenders; to provide for mandatory testing of certain rape kits; to create a system to track the status of rape kits and to require all hospitals, law enforcement and district attorneys to participate; to provide for reporting of sexual assault data to certain government agencies; to provide for immunity; to provide payment to hospitals for forensic medical exams; to provide for crime victim reparations; to provide for identification; to provide for billing; to provide for medical services for sexual assault victims; to provide for public records; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:623(A) is hereby amended and reenacted and R.S. 15:624.1 is hereby enacted to read as follows:

§623. Submission of sexual assault collection kits

A. Within thirty days of receiving a sexual assault collection kit for a reported case ~~involving an unknown suspect~~, the criminal justice agency shall submit the

1 sexual assault collection kit to a forensic laboratory for testing.

2 * * *

3 **§624.1. Submission of sexual assault collection kits**

4 **A. The office of state police shall create and operate a statewide sexual**
5 **assault collection kit tracking system. The office of state police may contract**
6 **with state or private entities including but not limited to private software and**
7 **technology providers, for the creation and maintenance of the system.**

8 **B. The statewide sexual assault collection kit tracking system shall:**

9 **(1) Track the location status of the kits throughout the criminal justice**
10 **process, including the initial collection performed at medical facilities, receipt**
11 **and storage at law enforcement agencies, receipt and analysis at forensic**
12 **laboratories, and storage or destruction after completion of analysis.**

13 **(2) Designate sexual assault collection kits as unreported or reported.**

14 **(3) Indicate whether a sexual assault collection kit contains biological**
15 **materials collected for the purpose of forensic toxicological analysis.**

16 **(4) Allow medical facilities performing sexual assault forensic**
17 **examinations, law enforcement agencies, prosecutors, the Louisiana State Police**
18 **Crime Laboratory, all other forensic crime laboratories in the state, and other**
19 **entities having custody of sexual assault collection kits to update and track the**
20 **status and location of sexual assault collection kits.**

21 **(5) Allow victims of sexual assault to anonymously track or receive**
22 **updates regarding the status of their sexual assault collection kits.**

23 **(6) Use electronic technology allowing continuous access.**

24 **C. The office of state police may phase-in initial participation according**
25 **to region or volume of kits.**

26 **D. The office of state police may use a phased implementation process in**
27 **order to launch the system and facilitate entry and use of the system for**
28 **required participants. The office of state police may phase initial participation**
29 **according to the region or volume. All entities, including law enforcement and**

1 healthcare providers having custody of sexual assault collection kits shall
2 provide all required information to the tracking system and fully participate in
3 the system no later than July 1, 2024. The office of state police shall submit a
4 report on the current status and plan for launching the system, including the
5 plan for phased implementation, to the Louisiana Sexual Assault Oversight
6 Commission, the Senate Committee on Judiciary B, and the governor no later
7 than January 1, 2024.

8 E. The office of state police shall submit an annual report on the
9 statewide sexual assault collection kit tracking system to the Louisiana Sexual
10 Assault Oversight Commission, the Senate Committee on Judiciary B, and the
11 governor no later than July thirty-first of each year. The office of state police
12 may make public the current report on its website. The report shall include the
13 following:

14 (1) The total number of sexual assault collection kits in the system
15 statewide and by jurisdiction.

16 (2) The total and semiannual number of sexual assault collection kits
17 where forensic analysis has been completed statewide and by jurisdiction.

18 (3) The number of sexual assault collection kits added to the system in
19 the reporting period statewide and by jurisdiction.

20 (4) The total and semiannual number of sexual assault collection kits
21 where forensic analysis has been requested, but not completed, statewide and
22 by jurisdiction.

23 (5) The average and median length of time for sexual assault collection
24 kits to be submitted for forensic analysis after being added to the system,
25 including separate sets of data for all sexual assault collection kits in the system
26 statewide and by jurisdiction.

27 (6) The average and median length of time for sexual assault collection
28 kits added to the system in the reporting period statewide and by jurisdiction.

29 (7) The total and semiannual number of sexual assault collection kits

1 destroyed or removed from the system statewide and by jurisdiction.

2 (8) The total number of sexual assault collection kits, statewide and by
3 jurisdiction, where forensic analysis has not been completed and six months or
4 more have passed since those sexual assault collection kits were added to the
5 system.

6 (9) The total number of sexual assault collection kits, statewide and by
7 jurisdiction, where forensic analysis has not been completed and one year or
8 more has passed since those sexual assault collection kits were added to the
9 system.

10 F. For the purpose of the reports required by Subsection E of this
11 Section, a sexual assault collection kit shall be assigned to the jurisdiction
12 associated with the law enforcement agency anticipated to receive the sexual
13 assault collection kit or otherwise have custody of the sexual assault collection
14 kit.

15 G. Any public agency or entity, including its officials or employees, and
16 any hospital and its employees providing services to victims of sexual assault,
17 shall not be held civilly liable for damages arising from any release of
18 information or the failure to release information related to the statewide sexual
19 assault collection kit tracking system, provided that the release was not grossly
20 negligent.

21 H. The office of state police shall adopt rules as necessary to implement
22 this Section.

23 I. For the purposes of this Section:

24 (1) "Reported sexual assault collection kit" means a sexual assault
25 collection kit where a law enforcement agency has received a related report or
26 complaint alleging that a sexual assault or other crime occurred.

27 (2) "Sexual assault collection kit" includes all evidence collected during
28 a sexual assault medical forensic examination.

29 (3) "Unreported sexual assault collection kit" means a sexual assault

1 (a) **A healthcare provider billing for any medical services that are not**
2 **specifically set forth in this Section or provided for diagnosis or treatment of the**
3 **victim for injuries related to the sexual assault.** ~~With the consent of the victim, to~~
4 ~~the victim's health insurance issuer. Notwithstanding any provision to the contrary,~~
5 ~~a health insurance issuer receiving a claim for covered healthcare services rendered~~
6 ~~in conducting a forensic medical exam shall waive any applicable deductible,~~
7 ~~coinsurance, and copay and the healthcare provider shall submit a claim to the Crime~~
8 ~~Victims Reparations Fund for satisfaction of any noncovered services. In addition,~~
9 ~~the health insurance issuer shall allow the victim to designate any address to be used~~
10 ~~for purposes of transmitting an explanation of benefits or allow the victim to~~
11 ~~designate that no explanation of benefits be generated or transmitted.~~

12 (b) **A victim of a sexually-oriented criminal offense seeking reparations**
13 **in accordance with the Crime Victims Reparations Act, R.S. 46:1801 et seq., for**
14 **the costs for any medical services that are not specifically set forth in this**
15 **Section or provided for the diagnosis or treatment of the victim for injuries**
16 **related to the sexual assault.** ~~The Louisiana Medicaid, Medicare, or Tricare~~
17 ~~programs, if the victim is enrolled as beneficiary of any of these programs:~~

18 (c) ~~If the victim does not consent to the healthcare provider submitting a~~
19 ~~claim to his or her health insurance issuer or the victim is not otherwise insured, the~~
20 ~~Crime Victims Reparations Board. The Crime Victims Reparations Board shall~~
21 ~~reimburse the healthcare provider in accordance with the provisions of R.S. 46:1822.~~

22 (8) ~~Except for those services specifically set forth in the provision of this~~
23 ~~Section, no other services shall be subject to the reimbursement or billing provisions~~
24 ~~of this Section and shall continue to be reimbursable under the ordinary billing~~
25 ~~procedures of the hospital or healthcare provider. In addition, a victim of a sexually-~~
26 ~~oriented offense may seek reimbursement for these services through the Crime~~
27 ~~Victims Reparations Board.~~

28 (9) The department shall make available to every hospital and healthcare
29 provider licensed under the laws of this state a pamphlet containing an explanation

1 of the billing process for services rendered pursuant to this Section. Every hospital
2 and healthcare provider shall provide a copy of the pamphlet to any person presented
3 for treatment as a victim of a sexually oriented criminal offense.

4 ~~(10)~~**(9)**(a) The victim shall be provided with information about emergency
5 contraception which shall be developed and made available electronically to all
6 licensed hospitals in this state through the Louisiana Department of Health's website
7 and by paper form upon request to the department.

8 (b) The treating healthcare provider shall inform the victim of the option to
9 be provided emergency contraception at the hospital or healthcare facility and, upon
10 the completion of a pregnancy test yielding a negative result, shall provide
11 emergency contraception upon the request of the victim.

12 * * *

13 Section 3. R.S. 46:1802(7) and 1822(C) are hereby amended and reenacted and R.S.
14 46:1802(14) is hereby enacted to read as follows:

15 §1802. Definitions

16 As used in this Chapter:

17 * * *

18 (7) "Healthcare provider" means ~~either of the following:~~

19 ~~(a) A~~ **a** physician or other healthcare practitioner licensed, certified,
20 registered, or otherwise authorized to perform specified healthcare services
21 consistent with state law.

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

27 * * *

28 **(14) "Healthcare facility" means a facility or institution providing**
29 **healthcare services, including but not limited to a hospital or other licensed**

January 1, 2024.

Proposed law requires the La. State Police to submit an annual report on the tracking system to the La. Sexual Assault Oversight Commission, the Senate Committee on Judiciary B, and the governor no later than July 31 each year.

Proposed law requires the report to contain the following, both statewide and by jurisdiction:

- (1) The total number of sexual assault collection kits in the system.
- (2) The total and semi-annual number of sexual assault collection kits with completed forensic analysis.
- (3) The number of sexual assault collection kits added to the system in the reporting period.
- (4) The total and semi-annual number of sexual assault collection kits where testing has been requested but not yet completed.
- (5) The average and median length of time for sexual assault collection kits to be submitted for testing after being added to the system.
- (6) The total and semi-annual number of sexual assault collection kits destroyed or removed from the system.
- (7) The total number of sexual assault collection kits waiting six months or longer to be tested.
- (8) The total number of sexual assault collection kits waiting over one year to be tested.

Proposed law requires that a sexual assault collection kit be assigned to a jurisdiction associated with the law enforcement agency anticipated to receive the kit.

Proposed law shields from liability any participating public agency, hospital, or law enforcement agency, including its employees, for the release of information or the failure to release information, except when there is gross negligence.

Proposed law permits the La. State Police to adopt rules necessary to implement proposed law.

Proposed law defines "reported sexual assault collection kit", "sexual assault collection kit", and "unreported sexual assault collection kit".

Proposed law clarifies present law by requiring healthcare providers who perform forensic medical exams to create a code number to maintain confidentiality for the victim in an unreported sexual assault.

Proposed law clarifies present law by requiring healthcare providers to be paid or a victim reimbursed for the performance of a forensic medical exam by the La. Crime Victim Reparations Board, except for any treatment not related to the sexual assault.

Proposed law distinguishes the definitions of "healthcare provider" and "healthcare facility".

Proposed law provides that the performance of a forensic medical exam is not reparations and is immediately payable by the La. Crime Victim Reparations Board. Proposed law further provides that payment must be made within 30 days of submission for payment.

Effective August 1, 2023.

(Amends R.S. 15:623(A), R.S. 40:1216.1(A)(2)(c) and (7)-(9), and R.S. 46:1802(7) and 1822(C); adds R.S. 15:624.1 and 46:1802(14); repeals R.S. 40:1216.1(A)(10))