SLS 23RS-269 ORIGINAL

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)

1	AN ACT
2	To amend and reenact R.S. 15:623(A), R.S. 40:1216.1(A)(2)(c) and (7) through (9), and R.S.
3	46:1802(7) and 1822(C), to enact R.S. 15:624.1 and 46:1802(14) and to repeal R.S.
4	40:1216.1(A)(10), relative to DNA detection of sexual and violent offenders; to
5	provide for mandatory testing of certain rape kits; to create a system to track the
6	status of rape kits and to require all hospitals, law enforcement and district attorneys
7	to participate; to provide for reporting of sexual assault data to certain government
8	agencies; to provide for immunity; to provide payment to hospitals for forensic
9	medical exams; to provide for crime victim reparations; to provide for identification;
10	to provide for billing; to provide for medical services for sexual assault victims; to
11	provide for public records; and to provide for related matters.
12	Be it enacted by the Legislature of Louisiana:
13	Section 1. R.S. 15:623(A) is hereby amended and reenacted and R.S. 15:624.1 is
14	hereby enacted to read as follows:
15	§623. Submission of sexual assault collection kits
16	A. Within thirty days of receiving a sexual assault collection kit for a reported
17	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 A. The office of state police shall create and operate a statewide sexual 4 assault collection kit tracking system. The office of state police may contract 5 with state or private entities including but not limited to private software and 6 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 examinations, law enforcement agencies, prosecutors, the Louisiana State Police 17 Crime Laboratory, all other forensic crime laboratories in the state, and other 18 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. (6) Use electronic technology allowing continuous access. 23 24 C. The office of state police may phase-in initial participation according 25 to region or volume of kits. D. The office of state police may use a phased implementation process in 26 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	<u>kit.</u>
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	collection kit where a law enforcement agency has not received a related report
2	or complaint alleging that a sexual assault has occurred.
3	Section 2. R.S. 40:1216.1(A)(2)(c) and (7) through (9) are hereby amended and
4	reenacted to read as follows:
5	§1216.1. Procedures for victims of a sexually oriented criminal offense; immunity;
6	regional plans; maximum allowable costs; definitions; documents
7	requested by victim
8	A. * * *
9	(2) * * *
10	(c) Any evidence collected shall be assigned a code number and the hospital
11	or healthcare provider that performed the forensic medical exam shall maintain
12	code records for a period of at least one year from the date the victim is presented for
13	treatment. The hospital or healthcare provider that performed the forensic medical
14	exam shall assign the code number by affixing to the evidence container a code to
15	be used in lieu of the victim's identifying information to maintain confidentiality.
16	The code number is to shall be used for identification should the victim later choose
17	to report the incident. The healthcare provider shall provide all information
18	required by the statewide tracking system operated by the office of state police,
19	pursuant to R.S. 15:624.1.
20	* * *
21	(7) A The healthcare provider who performed the forensic medical exam
22	and the healthcare facility shall may submit a claim for payment of healthcare
23	services rendered in for conducting a forensic medical exam for a victim of a
24	sexually oriented offense to any of the following: directly to the Louisiana Crime
25	Victim Reparations Board to be paid in strict accordance with the provisions
26	of R.S. 46:1822. A victim of a sexually-oriented criminal offense shall not be
27	billed directly or indirectly for the performance of any forensic medical exam.

to either of the following:

The provisions of this Paragraph shall not be interpreted or construed to apply

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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 <u>a</u> 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

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1 inpatient center, ambulatory surgical or treatment center, skilled nursing 2 facility, inpatient hospice facility, residential treatment center, diagnostic, 3 laboratory, or imaging center, or rehabilitation or other therapeutic health setting. 4 5 §1822. Forensic medical exams; reimbursement 6 7 8 C. A request for reimbursement by a healthcare provider or healthcare 9 facility for the performance of a forensic medical exam shall not constitute 10 reparations and therefore shall be immediately payable and not require 11 approval from the board as a condition of payment. The board shall direct payment to be made to a healthcare provider or healthcare facility no later than 12 13 ninety thirty calendar days from the date the attestation is submitted to the board by the healthcare provider or healthcare facility. 14 Section 4. R.S. 40:1216.1(A)(10) is hereby repealed. 15 The original instrument and the following digest, which constitutes no part

of the legislative instrument, were prepared by Whitney Kauffeld.

DIGEST 2023 Regular Session

SB 169 Original

Mizell

Present law requires law enforcement to submit a sexual assault collection kit for an assault reported to law enforcement with an unknown suspect to a forensic laboratory for testing within 30 days of receipt.

Proposed law requires law enforcement to submit every reported sexual assault collection kit for an assault with a known or unknown suspect to a forensic laboratory for testing within 30 days of receipt.

Proposed law requires La. State Police to create and operate a statewide sexual assault collection kit tracking system. Proposed law further provides that the tracking system must track the location and status of the kits throughout the criminal justice process; designate sexual assault collection kits as reported or unreported; indicate whether a sexual assault collection kit contains biological material; allow medical facilities, law enforcement, prosecutors, the La. State Police Crime Laboratory, and all other facilities having custody of the kit to update and track the status of the kits; and allow victims to track the status of their kit anonymously.

Proposed law permits the La. State Police to phase-in implementation as necessary, but the system must be implemented fully by July 1, 2024. Proposed law requires La. State Police to submit a report for the current status and plan to the La. Sexual Assault Oversight Commission, the Senate Committee on Judiciary B, and the governor no later than

Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

January 1, 2024.

<u>Proposed law</u> 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.

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

<u>Proposed law</u> 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.

<u>Proposed law</u> permits the La. State Police to adopt rules necessary to implement <u>proposed law</u>.

<u>Proposed law</u> defines "reported sexual assault collection kit", "sexual assault collection kit", and "unreported sexual assault collection kit".

<u>Proposed law</u> clarifies <u>present law</u> 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.

<u>Proposed law</u> clarifies <u>present law</u> 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".

<u>Proposed law</u> provides that the performance of a forensic medical exam is not reparations and is immediately payable by the La. Crime Victim Reparations Board. <u>Proposed law</u> 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))