

SENATE BILL NO. 169

BY SENATORS MIZELL, ABRAHAM, BARROW, BERNARD, BOUDREAUX, CLOUD, DUPLESSIS, FESI, FIELDS, HARRIS, HENRY, HENSGENS, KLEINPETER, MILLIGAN, ROBERT MILLS, PRICE, SMITH, STINE, TALBOT AND TARVER AND REPRESENTATIVES AMEDEE, BOYD, BRYANT, CARRIER, WILFORD CARTER, ECHOLS, EMERSON, FISHER, FREEMAN, GAROFALO, GLOVER, HILFERTY, HUGHES, ILLG, LAFLEUR, LARVADAIN, MARCELLE, NEWELL, ORGERON, SCHLEGEL, SELDERS, TARVER, THOMAS, THOMPSON, VILLIO AND WHITE

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

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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), 1807(B)(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 sexual assault collection kit to a forensic laboratory for testing.

* * *

§624.1. Submission of sexual assault collection kits

A. The office of state police shall create and operate a statewide sexual

1 assault collection kit tracking system. The office of state police may contract
2 with public or private entities, including but not limited to private software and
3 technology providers, for the creation and maintenance of the system.

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

5 (1) Track the location status of the kits throughout the criminal justice
6 process, including the initial collection performed at medical facilities, receipt
7 and storage at law enforcement agencies, receipt and analysis at forensic
8 laboratories, and storage or destruction after completion of analysis.

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

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

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

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

19 (6) Use electronic technology allowing continuous access.

20 C. The office of state police may phase in initial participation according
21 to region or volume of kits.

22 D. The office of state police may use a phased implementation process in
23 order to launch the system and facilitate entry and use of the system for
24 required participants. The office of state police may phase initial participation
25 according to the region or volume. All entities, including law enforcement and
26 healthcare providers having custody of sexual assault collection kits shall
27 provide all required information to the tracking system and fully participate in
28 the system no later than July 1, 2024. The office of state police shall submit a
29 report on the current status and plan for launching the system, including the
30 plan for phased implementation, to the Louisiana Sexual Assault Oversight

1 Commission, the Senate Committee on Judiciary B, the House Committee on
2 Administration of Criminal Justice, and the governor no later than January 1,
3 2024.

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

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

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

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

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

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

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

25 (7) The total and semiannual number of sexual assault collection kits
26 destroyed or removed from the system statewide and by jurisdiction.

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

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

5 F. For the purpose of the reports required by Subsection E of this
 6 Section, a sexual assault collection kit shall be assigned to the jurisdiction
 7 associated with the law enforcement agency anticipated to receive the sexual
 8 assault collection kit or otherwise have custody of the sexual assault collection
 9 kit.

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

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

18 I. For the purposes of this Section:

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

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

24 (3) "Unreported sexual assault collection kit" means a sexual assault
 25 collection kit where a law enforcement agency has not received a related report
 26 or complaint alleging that a sexual assault has occurred.

27 Section 2. R.S. 40:1216.1(A)(2)(c) and (7) through (9) are hereby amended and
 28 reenacted to read as follows:

29 §1216.1. Procedures for victims of a sexually oriented criminal offense; immunity;
 30 regional plans; maximum allowable costs; definitions; documents

1 requested by victim

2 A. * * *

3 (2) * * *

4 (c) Any evidence collected shall be assigned a code number and the hospital
5 or healthcare provider **that performed the forensic medical exam** shall maintain
6 code records for a period of at least one year from the date the victim is presented for
7 treatment. The hospital or healthcare provider **that performed the forensic medical**
8 **exam** shall assign the code number by affixing to the evidence container a code to
9 be used in lieu of the victim's identifying information to maintain confidentiality.
10 The code number ~~is to~~ **shall** be used for identification should the victim later choose
11 to report the incident. **The healthcare provider shall provide all information**
12 **required by the statewide tracking system operated by the office of state police,**
13 **pursuant to R.S. 15:624.1.**

14 * * *

15 (7) ~~A~~ **The healthcare provider who performed the forensic medical exam**
16 **and the healthcare facility shall** may submit a claim for payment of healthcare
17 services rendered in **for** conducting a forensic medical exam for a victim of a
18 sexually oriented offense to any of the following: **directly to the Crime Victim**
19 **Reparations Board to be paid in strict accordance with the provisions of R.S.**
20 **46:1822. A victim of a sexually oriented criminal offense shall not be billed**
21 **directly or indirectly for the performance of any forensic medical exam. The**
22 **provisions of this Paragraph shall not be interpreted or construed to apply to**
23 **either of the following:**

24 (a) **A healthcare provider billing for any medical services that are not**
25 **specifically set forth in this Section or provided for diagnosis or treatment of the**
26 **victim for injuries related to the sexual assault.** ~~With the consent of the victim, to~~
27 ~~the victim's health insurance issuer. Notwithstanding any provision to the contrary,~~
28 ~~a health insurance issuer receiving a claim for covered healthcare services rendered~~
29 ~~in conducting a forensic medical exam shall waive any applicable deductible,~~
30 ~~coinsurance, and copay and the healthcare provider shall submit a claim to the Crime~~

1 Victims Reparations Fund for satisfaction of any noncovered services. In addition,
 2 the health insurance issuer shall allow the victim to designate any address to be used
 3 for purposes of transmitting an explanation of benefits or allow the victim to
 4 designate that no explanation of benefits be generated or transmitted.

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

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

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

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

26 ~~(10)~~**(9)**(a) The victim shall be provided with information about emergency
 27 contraception which shall be developed and made available electronically to all
 28 licensed hospitals in this state through the Louisiana Department of Health's website
 29 and by paper form upon request to the department.

30 (b) The treating healthcare provider shall inform the victim of the option to

1 be provided emergency contraception at the hospital or healthcare facility and, upon
2 the completion of a pregnancy test yielding a negative result, shall provide
3 emergency contraception upon the request of the victim.

4 * * *

5 Section 3. R.S. 46:1802(7), 1807(B)(7), and 1822(C) are hereby amended and
6 reenacted and R.S. 46:1802(14) is hereby enacted to read as follows:

7 §1802. Definitions

8 As used in this Chapter:

9 * * *

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

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

14 ~~(b) A facility or institution providing healthcare services, including but not~~
15 ~~limited to a hospital or other licensed inpatient center, ambulatory surgical or~~
16 ~~treatment center, skilled nursing facility, inpatient hospice facility, residential~~
17 ~~treatment center, diagnostic, laboratory, or imaging center, or rehabilitation or other~~
18 ~~therapeutic health setting.~~

19 * * *

20 **(14) "Healthcare facility" means a facility or institution providing**
21 **healthcare services, including but not limited to a hospital or other licensed**
22 **inpatient center, ambulatory surgical or treatment center, skilled nursing**
23 **facility, inpatient hospice facility, residential treatment center, diagnostic,**
24 **laboratory, or imaging center, or rehabilitation or other therapeutic health**
25 **setting.**

26 * * *

27 §1807. Powers and duties of board; staff

28 * * *

29 B. In the performance of its powers and duties the board shall:

30 * * *

1 (7) Develop, adopt, and promulgate rules in the manner provided in the
 2 Administrative Procedure Act and in accordance with the provisions of R.S.
 3 46:1806(B). The rules shall contain specific guidelines which shall establish the
 4 reasonable costs to be ~~charged~~ reimbursed for all healthcare services or expenses
 5 ancillary to a forensic medical examination ~~which shall not exceed one thousand~~
 6 dollars for each case.

* * *

§1822. Forensic medical exams; reimbursement

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10 C. A request for reimbursement by a healthcare provider or healthcare
 11 facility for the performance of a forensic medical exam shall not constitute
 12 reparations and therefore shall be immediately payable and not require
 13 approval from the board as a condition of payment. The board shall direct
 14 payment to be made to a healthcare provider or healthcare facility no later than
 15 ~~ninety~~ thirty calendar days from the date the attestation is submitted to the board by
 16 the healthcare provider or healthcare facility.

17 Section 4. R.S. 40:1216.1(A)(10) is hereby repealed.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____