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.

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.

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§624.1. Submission of sexual assault collection kits

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

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

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

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

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

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

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

(6) Use electronic technology allowing continuous access.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I. For the purposes of this Section:

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

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

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

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

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

Coding: Words which are struck through are deletions from existing law; words in boldface type and underscored are additions.
(c) Any evidence collected shall be assigned a code number and the hospital or healthcare provider that performed the forensic medical exam shall maintain code records for a period of at least one year from the date the victim is presented for treatment. The hospital or healthcare provider that performed the forensic medical exam shall assign the code number by affixing to the evidence container a code to be used in lieu of the victim's identifying information to maintain confidentiality.

The code number is to be used for identification should the victim later choose to report the incident. The healthcare provider shall provide all information required by the statewide tracking system operated by the office of state police, pursuant to R.S. 15:624.1.

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

(a) A healthcare provider billing for any medical services that are not specifically set forth in this Section or provided for diagnosis or treatment of the victim for injuries related to the sexual assault. With the consent of the victim, to the victim's health insurance issuer. Notwithstanding any provision to the contrary, a health insurance issuer receiving a claim for covered healthcare services rendered in conducting a forensic medical exam shall waive any applicable deductible, coinsurance, and copay and the healthcare provider shall submit a claim to the Crime Victim Reparations Board to be paid in strict accordance with the provisions of R.S. 46:1822.
Victims Reparations Fund for satisfaction of any noncovered services. In addition, the health insurance issuer shall allow the victim to designate any address to be used for purposes of transmitting an explanation of benefits or allow the victim to designate that no explanation of benefits be generated or transmitted:

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

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

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

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

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

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

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

§1802. Definitions

As used in this Chapter:

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

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

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

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

§1807. Powers and duties of board; staff

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

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

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§1822. Forensic medical exams; reimbursement

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C. A request for reimbursement by a healthcare provider or healthcare facility for the performance of a forensic medical exam shall not constitute reparations and therefore shall be immediately payable and not require 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 ninety thirty calendar days from the date the attestation is submitted to the board by the healthcare provider or healthcare facility.

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: ____________

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