

SENATE COMMITTEE AMENDMENTS

2024 Regular Session

Amendments proposed by Senate Committee on Judiciary B to Original Senate Bill No. 124 by Senator Mizell

1 AMENDMENT NO. 1

2 On page 1, line 2, after "R.S. 40:1216.1" delete the remainder of the line and insert "and R.S.  
3 46:1845,"

4 AMENDMENT NO. 2

5 On page 1, delete line 8 and insert:

6 "Section 1. R.S. 40:1216.1 is hereby amended and"

7 AMENDMENT NO. 3

8 On page 1, delete lines 13 through 17 and delete page 2 and on page 3, delete lines 1 through  
9 21 and insert:

10 "A. All licensed hospitals and healthcare providers in Louisiana shall adhere  
11 to the following procedures ~~in the event that a~~ **if a** person, male or female, presents  
12 ~~himself or herself~~ or is presented for treatment as a ~~victim of a sexually oriented~~  
13 ~~criminal offense~~ **sexual assault survivor**:

14 (1)~~(a)~~ ~~The victim~~ **Except as provided in Subparagraphs (b) and (c) of this**  
15 **Paragraph, a survivor** shall ~~make the decision of~~ **decide** whether or not the incident  
16 will be reported to law enforcement officials. No hospital or healthcare provider shall  
17 require the ~~person~~ **survivor** to report the incident ~~in order~~ to receive medical  
18 attention ~~or collect evidence~~.

19 **(b) If a person under the age of eighteen presents for treatment as a**  
20 **sexual assault survivor, the hospital or healthcare provider shall immediately**  
21 **notify the appropriate law enforcement agency or any other official necessary**  
22 **to fulfill any mandatory reporting obligation required by law.**

23 **(c) If a survivor is physically or mentally incapable of making the**  
24 **decision to report, the hospital or healthcare provider shall immediately notify**  
25 **the appropriate law enforcement officials.**

26 (2)~~(a)~~ **All sexual assault survivors shall be examined and treated, without**  
27 **undue delay, in a private space required to ensure the health, safety, and**  
28 **welfare of the survivor by a qualified healthcare provider. Examination and**  
29 **treatment, including the forensic medical examination, shall be adapted as**  
30 **necessary to address the unique needs and circumstances of each survivor. All**  
31 **survivors shall be afforded an advocate whose communications are privileged**  
32 **in accordance with the provisions of R.S. 46:2187, if one is available. With the**  
33 **consent of the survivor, an advocate shall remain in the examination room**  
34 **during the forensic medical examination. With the consent of the survivor, the**  
35 **examination and treatment of all sexual assault survivors shall, at a minimum,**  
36 **including all of the following:**

37 **(a) Examination of physical trauma.**

38 **(b) Patient interview, including medical history, triage, and consultation.**

39 **(c) Collection and evaluation of evidence, including but not limited to**  
40 **the following:**

41 **(i) Photographic documentation.**

42 **(ii) Preservation and maintenance of chain of custody.**

43 **(iii) Medical specimen collection.**

44 **(iv) When determined necessary by the healthcare provider, an alcohol**  
45 **or drug-facilitated sexual assault assessment and toxicology screening.**

46 **(d) Laboratory testing related to the forensic medical examination when**  
47 **indicated, including drug screening, urinalysis, pregnancy screening, syphilis**

1 screening, chlamydia culture, gonorrhea coverage culture, blood test for HIV  
 2 screening, hepatitis B and C, herpes culture, and any other sexually transmitted  
 3 disease testing directly related to the forensic examination.

4 (e) Any medication provided during the forensic medical examination,  
 5 which may include emergency contraception and HIV or STI prophylaxis.

6 (3)(a) If the survivor wishes to report the incident to law enforcement,  
 7 the hospital or healthcare provider shall contact the appropriate law  
 8 enforcement agency having jurisdiction over the location where the crime  
 9 occurred. If the location where the crime occurred cannot be determined, the  
 10 hospital or healthcare provider shall contact the law enforcement agency having  
 11 jurisdiction over the location where the forensic medical examination is  
 12 performed to determine the appropriate investigating agency.

13 (b) Upon completion of the forensic medical examination, the sexual  
 14 assault collection kit shall be turned over to the investigating law enforcement  
 15 agency. No sexual assault collection kit shall remain at a hospital or medical  
 16 facility if the hospital or medical facility is unable to store the sexual assault kit  
 17 in a secure location that ensures proper chain of custody. If a hospital or  
 18 medical facility has a secure location to store the sexual assault collection kit  
 19 that ensures proper chain of custody, the investigating law enforcement agency  
 20 shall take possession of the sexual assault collection kit within seventy-two hours  
 21 upon notification of completion of the sexual assault collection kit by the  
 22 hospital or medical facility. A healthcare provider working for a coroner's  
 23 office may store the sexual assault collection kit in a secure location maintained  
 24 by the coroner.

25 (4) If the victim survivor does not wish to report the incident to law  
 26 enforcement, officials, the victim the hospital or healthcare provider shall be  
 27 examined and treated as any other patient. Any injuries requiring medical attention  
 28 shall be treated in the standard manner. Tests and treatments exclusive to a victim  
 29 of a sexually oriented criminal offense shall be explained and offered to the patient.  
 30 The patient shall decide whether or not such tests shall be conducted.

31 (b) Any examination and treatment shall include the preservation, in strict  
 32 confidentiality, for a period of at least one year from the time the victim is presented  
 33 for treatment, of tests or procedures, or both, and samples that may serve as potential  
 34 evidence. The patient shall be informed of the length of time for which the  
 35 specimens will be preserved. If the victim does not wish to report the incident to law  
 36 enforcement authorities, the responsibilities of the hospital or healthcare provider,  
 37 beyond medical treatment, shall be limited to the collection of tests, procedures, or  
 38 samples that may serve as potential evidence.

39 (c) Any evidence collected shall be assigned a code number, and the hospital  
 40 or healthcare provider that performed the forensic medical exam shall maintain code  
 41 records for a period of at least one year from the date the victim is presented for  
 42 treatment. The hospital or healthcare provider that performed the forensic medical  
 43 exam shall assign the code number by affixing to the evidence container a code to  
 44 be used in lieu of the victim's identifying information to maintain confidentiality.  
 45 The code number contact the appropriate law enforcement agency having  
 46 jurisdiction over the location where the forensic medical examination is  
 47 performed after it is completed to transfer possession of the unreported sexual  
 48 assault collection kit for storage. The unreported sexual assault collection kit  
 49 shall not be identified or labeled with the survivor's identifying information.  
 50 The hospital or healthcare provider shall maintain a record of the sexual assault  
 51 collection kit number in the survivor's record that shall be used for identification  
 52 should the victim survivor later choose to report the incident. The healthcare  
 53 provider shall provide all information required by the statewide tracking system  
 54 operated by the office of state police, pursuant to R.S. 15:624.1 No sexual assault  
 55 collection kit shall remain at a hospital or medical facility if the hospital or  
 56 medical facility is unable to store the sexual assault kit in a secure location that  
 57 ensures proper chain of custody. If a hospital or medical facility has a secure  
 58 location that ensures proper chain of custody, the law enforcement agency  
 59 having jurisdiction over the location where the forensic medical examination is  
 60 performed shall take possession of the unreported sexual assault collection kit  
 61 within seventy-two hours upon notification of completion of the sexual assault

collection kit by the hospital or medical facility. A healthcare provider working for a coroner's office may secure the unreported sexual assault collection kit in a secured location maintained by the coroner. The law enforcement agency shall not destroy or dispose of an unreported sexual assault collection kit for a period of at least twenty years after the forensic medical examination was performed. A healthcare provider working for a coroner's office may store unreported sexual assault collection kits. If a healthcare provider working for a coroner's office chooses to store an unreported sexual assault collection kit at a coroner's office, the healthcare provider shall not destroy or dispose of an unreported sexual assault collection kit for period of at least twenty years after the forensic medical examination was performed.

~~(d) For unreported cases, once a code number has been assigned, custody of the evidence shall be transferred to an appropriate criminal justice agency or the local law enforcement agency having jurisdiction in the parish in which the crime occurred or to the appropriate criminal justice agency or local law enforcement agency having jurisdiction in the parish in which the hospital or healthcare provider is located, if the jurisdiction of the crime is unknown, and responsibility for the custody of the evidence shall belong to that criminal justice agency or local law enforcement agency. The law enforcement agency shall retrieve from the hospital or healthcare provider the evidence no later than seven days after receiving notification that a code number has been assigned to the evidence. The hospital or healthcare provider shall coordinate the transfer of the evidence with the criminal justice agency or law enforcement agency in a manner designed to protect its evidentiary integrity. Evidence which is transferred to the custody of the appropriate criminal justice agency or local law enforcement agency shall bear only the code number assigned by the hospital or healthcare provider.~~

~~(3) If the victim wishes to report the incident to law enforcement officials, the hospital staff or healthcare provider shall contact the appropriate law enforcement agency. After the incident has been reported, the victim shall be examined and treated as any other patient, any injuries requiring medical attention shall be treated in the standard manner, and specimens shall be kept for evidence. The evidence shall be turned over to the law enforcement officers when they arrive to assume responsibility for investigation of the incident and in no event shall the evidence remain at the hospital more than seven days after the law enforcement agency receives the notification from the hospital.~~

~~(4)(a) Notwithstanding any other provisions of this Section, if any person seventeen years old or younger presents himself or herself or is presented for treatment as a victim of a sexually oriented criminal offense, the hospital or healthcare provider shall immediately notify the appropriate law enforcement official. The appropriate law enforcement official shall have seven days from the receipt of the notification to retrieve any evidence collected by the hospital pursuant to this Subparagraph.~~

~~(b) The coroner of the parish, the district attorney, appropriate law enforcement officials, hospital personnel, and healthcare providers may develop procedures pursuant to R.S. 15:440.1 through 440.6 to make a videotape of the person provided for in Subparagraph (a) of this Paragraph when a person fourteen years old or younger has been the victim of physical or sexual abuse. The costs of such videotaping may be allocated among the agencies and facilities involved.~~

~~(5) Notwithstanding any other provisions of this Section, if the victim is physically or mentally incapable of making the decision to report, the hospital or healthcare provider shall immediately notify the appropriate law enforcement officials.~~

~~(6)~~**(5) No hospital or healthcare provider shall directly bill a victim survivor of a sexually oriented criminal offense for any healthcare services rendered in conducting a forensic medical examination as provided for in R.S. 15:622. The expenses shall include the following including the healthcare services rendered in accordance with Paragraph (2) of this Subsection and the following:**

(a) Forensic examiner and hospital or healthcare facility services directly related to the exam, including integral forensic supplies.

(b) Scope procedures directly related to the forensic exam including but not limited to anoscopy and colposcopy.

1 (c) ~~Laboratory testing directly related to the forensic examination, including~~  
2 ~~drug screening, urinalysis, pregnancy screening, syphilis screening, chlamydia~~  
3 ~~culture, gonorrhea coverage culture, blood test for HIV screening, hepatitis B and C,~~  
4 ~~herpes culture, and any other sexually transmitted disease testing directly related to~~  
5 ~~the forensic examination.~~

6 (d) Any medication provided during the forensic medical examination.

7 ~~(7)(6)~~ The healthcare provider who performed the forensic medical exam and  
8 the **hospital or** healthcare facility shall submit a claim for payment for conducting  
9 a forensic medical exam directly to the Crime Victim Reparations Board to be paid  
10 in strict accordance with the provisions of R.S. 46:1822. A **victim survivor** of a  
11 sexually oriented criminal offense shall not be billed directly or indirectly for the  
12 performance of any forensic medical exam. The provisions of this Paragraph shall  
13 not be interpreted or construed to apply to ~~either of the following:~~

14 ~~(a) A healthcare provider billing for any medical services that are not~~  
15 ~~specifically set forth in this Section or provided for diagnosis or treatment of the~~  
16 ~~victim for injuries related to the sexual assault.~~

17 ~~(b) A victim a survivor~~ of a sexually oriented criminal offense seeking  
18 reparations in accordance with the Crime Victims Reparations Act, R.S. 46:1801 et  
19 seq., for the costs for any medical services that are not specifically set forth in this  
20 Section or provided for the diagnosis or treatment of the victim for injuries related  
21 to the sexual assault.

22 ~~(8)(7)~~ The department shall make available to every hospital and healthcare  
23 provider licensed under the laws of this state a pamphlet containing an explanation  
24 of the billing process for services rendered pursuant to this Section. Every hospital  
25 and healthcare provider shall provide a copy of the pamphlet to any person presented  
26 for treatment as a **victim survivor** of a sexually oriented criminal offense.

27 ~~(9)(a)(8)(a)~~ The **victim survivor** shall be provided with information about  
28 emergency contraception which shall be developed and made available electronically  
29 to all licensed hospitals in this state through the Louisiana Department of Health's  
30 website and by paper form upon request to the department.

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

35 B.(1) These procedures shall constitute minimum standards for the operation  
36 and maintenance of hospitals under the provisions of this Part and failure to comply  
37 with the standards shall constitute grounds for denial, suspension, or revocation of  
38 license under provisions of this Part.

39 (2) Failure to comply with the provisions of this Section may constitute  
40 grounds for denial, suspension, or revocation of the healthcare provider's license by  
41 the appropriate licensing board or commission.

42 C. When a licensed hospital or healthcare provider fails to examine and treat  
43 a person, ~~male or female~~, who has presented ~~himself or herself~~ or who has been  
44 presented as a **victim survivor** of a sexually oriented criminal offense, the coroner  
45 of the parish or his designee shall examine the alleged victim and, if necessary, make  
46 arrangements for the treatment of the **victim survivor**. The coroner may select the  
47 hospital or healthcare provider named as the lead entity for sexual assault  
48 examinations in the regional plan required by this Section as his designee to perform  
49 the forensic medical examination. No coroner shall refuse to examine and assist an  
50 alleged **victim survivor** on the grounds the alleged offense occurred outside of or the  
51 **victim survivor** is not a resident of the jurisdiction. Nothing in this Subsection shall  
52 relieve a licensed hospital or healthcare provider of its obligations under Subsections  
53 A and B of this Section.

54 D.(1) Any member of the hospital staff or a healthcare provider who in good  
55 faith notifies the appropriate law enforcement official pursuant to ~~Paragraphs (A)(4)~~  
56 ~~and (A)(5)~~ **Paragraph (A)(1)** of this Section shall have immunity from any civil  
57 liability that otherwise might be incurred or imposed because of the notification. The  
58 immunity shall extend to participation in any judicial proceeding resulting from the  
59 report.

1 (2) The hospital or healthcare provider staff member who notifies the  
2 appropriate law enforcement official shall document the date, time, and method of  
3 notification and the name of the official who received the notification.

4 (3) On or before January first of each year, each law enforcement agency  
5 shall provide each hospital located in its respective jurisdiction with the name of the  
6 responsible contact person along with the responsible person's contact information  
7 in order to comply with the provisions of this Section.

8 E.(1) The Louisiana Department of Health, through the medical directors of  
9 each of its nine regional health service districts, shall coordinate an annual sexual  
10 assault response plan for each district. Each district shall submit a proposed plan for  
11 review by the secretary no later than November first of each year. An approved plan  
12 shall become effective February first of the following year.

13 (2) When developing the annual response plan, each district shall incorporate  
14 a sexual assault response team protocol to the extent possible; however, at a  
15 minimum, each district shall develop the annual plan to do all of the following:

16 (a) Provide an inventory of all available resources and existing infrastructure  
17 in the region and clearly outline how the resources and infrastructure will be  
18 incorporated in the most effective manner.

19 (b) Clearly outline the entity responsible for the purchase of sexual assault  
20 collection kits and the standards and procedures for the storage of the kits prior to  
21 use in a forensic medical examination.

22 (c) Clearly outline the standards and procedures for a **victim survivor** to  
23 receive a forensic medical examination, as defined in R.S. 15:622, to ensure access  
24 to such an examination in every parish. The plan shall designate a hospital or  
25 healthcare provider to be the lead entity for sexual assault examinations for adult  
26 **victims survivors** and a hospital or healthcare provider to be the lead entity for  
27 sexual assault examinations for pediatric **victims survivors**. The plan shall also  
28 include specific details directing first responders in the transport of **victims**  
29 **survivors** of a sexually-oriented crime, the appropriate party to perform the forensic  
30 medical examination, and any required training for a person performing a forensic  
31 medical examination.

32 (d) Clearly outline the standards and procedures for the handling and  
33 payment of medical bills related to the forensic medical examination to clarify and  
34 ensure that those standards and procedures are in compliance with this Section and  
35 any other applicable section of law.

36 (e) Clearly outline the standards and procedures for the transfer of sexual  
37 assault collection kits for both reported and unreported crimes to an appropriate  
38 criminal justice agency or the local law enforcement agency having jurisdiction in  
39 the parish in which the crime was committed, if known, or if unknown, to an  
40 appropriate criminal justice agency or the local law enforcement agency having  
41 jurisdiction in the parish in which the hospital or healthcare provider is located. The  
42 plan shall include a maximum time period for the transfer to occur not to exceed  
43 seven days after the criminal justice agency or local law enforcement agency  
44 receives a request for the transfer from the hospital or healthcare provider.

45 (3) When developing the annual response plan, the department shall solicit  
46 the input of interested stakeholders in the region including but not limited to all of  
47 the following:

- 48 (a) The sheriff for each parish within the region.
- 49 (b) The chief of police for any political subdivision located within the region.
- 50 (c) All hospitals located within the region.
- 51 (d) The coroner for each parish within the region.
- 52 (e) First responder organizations located within the region.
- 53 (f) Higher education institutions located within the region.
- 54 (g) The school board for each parish located within the region.
- 55 (h) Sexual assault advocacy organizations and children's advocacy centers  
56 providing services within the region.
- 57 (i) The district attorney for each parish within the region or his designee.
- 58 (j) Each crime lab located within the region.

59 (4) The annual response plan shall be approved by the stakeholders as  
60 provided for in Paragraph (3) of this Subsection.

1 F. All sexual assault collection kits used in a forensic medical examination  
2 shall meet the standards developed by the Louisiana Department of Health and the  
3 Department of Public Safety and Corrections.

4 G.(1) Upon request of a competent adult victim survivor of a sexually  
5 oriented criminal offense, the healthcare provider that performed the forensic  
6 medical exam shall provide a reproduction of any written documentation which is  
7 in the possession of the healthcare provider resulting from the forensic medical exam  
8 of the victim. The documentation shall be provided to the victim survivor no later  
9 than fourteen days after the healthcare provider receives the request or the healthcare  
10 provider completes the documentation, whichever is later.

11 (2) The reproduction of written documentation provided for in this  
12 Subsection shall be made available at no cost to the victim survivor and may only  
13 be released at the direction of the victim who is a competent adult. This release does  
14 not invalidate the victim's survivor's reasonable expectation of privacy nor does the  
15 record become a public record after the release to the victim survivor.

16 H. For purposes of this Section the following definitions apply:

17 (1) "Emergency contraception" means only drugs approved by the United  
18 States Food and Drug Administration with mechanisms of action that likely include  
19 the prevention of ovulation, sperm capacitation, or fertilization after sexual  
20 intercourse and do not meet the definition of a legend drug as defined in R.S.  
21 40:1060.11.

22 (2) "Forensic medical examination" has the same meaning as defined in R.S.  
23 15:622.

24 (3) "Healthcare provider" means either of the following:

25 (a) A physician, sexual assault nurse examiner, or other healthcare  
26 practitioner licensed, certified, registered, or otherwise authorized **and trained** to  
27 perform ~~specified healthcare services consistent with state law~~ a forensic medical  
28 examination.

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

34 (4) "Healthcare services" means services, items, supplies, or drugs for the  
35 diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury,  
36 or disease ancillary to a sexually oriented criminal offense.

37 **(5) "Sexual assault collection kit" includes all evidence collected during**  
38 **a forensic medical examination.**

39 ~~(5)(6)~~ "Sexually oriented criminal offense" has the same meaning as defined  
40 in R.S. 15:622.

41 **(7) "Unreported sexual assault collection kit" means a sexual assault**  
42 **collection kit where a law enforcement agency has not received a related report**  
43 **or complaint alleging that a sexual assault has occurred.**