

2024 Regular Session

SENATE BILL NO. 124

BY SENATOR MIZELL AND REPRESENTATIVES AMEDEE, BILLINGS,  
CHENEVERT, COATES, DAVIS, DICKERSON, DOMANGUE,  
FREEMAN, LAFLEUR, MARCELLE, MOORE, PHELPS, TAYLOR  
AND WALTERS

CRIMINAL JUSTICE. Creates the Sexual Assault Survivor's Bill of Rights. (8/1/24)

1 AN ACT  
2 To amend and reenact R.S. 40:1216.1 and R.S. 46:1845, relative to victims of sexual  
3 assaults; to provide regarding the maintenance of evidence; to provide regarding the  
4 billing of services provided to the sexual assault survivor; to create a sexual assault  
5 survivor bill of rights; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 40:1216.1 is hereby amended and reenacted to read as follows:

8 §1216.1. Procedures for victims of a sexually oriented criminal offense; immunity;  
9 regional plans; maximum allowable costs; definitions; documents  
10 requested by victim

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

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

1 require the ~~person~~ survivor to report the incident ~~in order~~ to receive medical  
2 attention or collect evidence.

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

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

10 (2)(a) All sexual assault survivors shall be examined and treated, without  
11 undue delay, in a private space required to ensure the health, safety, and  
12 welfare of the survivor by a qualified healthcare provider. Examination and  
13 treatment, including the forensic medical examination, shall be adapted as  
14 necessary to address the unique needs and circumstances of each survivor. All  
15 survivors shall be afforded an advocate whose communications are privileged  
16 in accordance with the provisions of R.S. 46:2187, if one is available. With the  
17 consent of the survivor, an advocate shall remain in the examination room  
18 during the forensic medical examination. With the consent of the survivor, the  
19 examination and treatment of all sexual assault survivors shall, at a minimum,  
20 including all of the following:

21 (a) Examination of physical trauma.

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

23 (c) Collection and evaluation of evidence, including but not limited to the  
24 following:

25 (i) Photographic documentation.

26 (ii) Preservation and maintenance of chain of custody.

27 (iii) Medical specimen collection.

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

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

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

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

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

27           (4) If the ~~victim~~ survivor does not wish to report the incident to law  
28           enforcement, ~~officials, the victim~~ the hospital or healthcare provider shall be  
29           examined and treated as any other patient. Any injuries requiring medical attention

1 shall be treated in the standard manner. Tests and treatments exclusive to a victim  
2 of a sexually oriented criminal offense shall be explained and offered to the patient.  
3 The patient shall decide whether or not such tests shall be conducted.

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

12 (c) Any evidence collected shall be assigned a code number, and the hospital  
13 or healthcare provider that performed the forensic medical exam shall maintain code  
14 records for a period of at least one year from the date the victim is presented for  
15 treatment. The hospital or healthcare provider that performed the forensic medical  
16 exam shall assign the code number by affixing to the evidence container a code to  
17 be used in lieu of the victim's identifying information to maintain confidentiality.  
18 The code number contact the appropriate law enforcement agency having  
19 jurisdiction over the location where the forensic medical examination is  
20 performed after it is completed to transfer possession of the unreported sexual  
21 assault collection kit for storage. The unreported sexual assault collection kit  
22 shall not be identified or labeled with the survivor's identifying information.  
23 The hospital or healthcare provider shall maintain a record of the sexual assault  
24 collection kit number in the survivor's record that shall be used for identification  
25 should the victim survivor later choose to report the incident. The healthcare  
26 provider shall provide all information required by the statewide tracking system  
27 operated by the office of state police, pursuant to R.S. 15:624.1 No sexual assault  
28 collection kit shall remain at a hospital or medical facility if the hospital or  
29 medical facility is unable to store the sexual assault kit in a secure location that

1 ensures proper chain of custody. If a hospital or medical facility has a secure  
2 location that ensures proper chain of custody, the law enforcement agency  
3 having jurisdiction over the location where the forensic medical examination is  
4 performed shall take possession of the unreported sexual assault collection kit  
5 within seventy-two hours upon notification of completion of the sexual assault  
6 collection kit by the hospital or medical facility. A healthcare provider working  
7 for a coroner's office may secure the unreported sexual assault collection kit in  
8 a secured location maintained by the coroner. The law enforcement agency shall  
9 not destroy or dispose of an unreported sexual assault collection kit for a period  
10 of at least twenty years after the forensic medical examination was performed.  
11 A healthcare provider working for a coroner's office may store unreported  
12 sexual assault collection kits. If a healthcare provider working for a coroner's  
13 office chooses to store an unreported sexual assault collection kit at a coroner's  
14 office, the healthcare provider shall not destroy or dispose of an unreported  
15 sexual assault collection kit for period of at least twenty years after the forensic  
16 medical examination was performed.

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

1 agency or local law enforcement agency shall bear only the code number assigned  
2 by the hospital or healthcare provider:

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

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

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

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

29 ~~(6)~~(5) No hospital or healthcare provider shall directly bill a victim survivor

1 of a sexually oriented criminal offense for any healthcare services rendered in  
2 conducting a forensic medical examination as ~~provided for in R.S. 15:622.~~ The  
3 ~~expenses shall include the following~~ **including the healthcare services rendered**  
4 **in accordance with Paragraph (2) of this Subsection and the following:**

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

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

9 ~~(c) Laboratory testing directly related to the forensic examination, including~~  
10 ~~drug screening, urinalysis, pregnancy screening, syphilis screening, chlamydia~~  
11 ~~culture, gonorrhea coverage culture, blood test for HIV screening, hepatitis B and C,~~  
12 ~~herpes culture, and any other sexually transmitted disease testing directly related to~~  
13 ~~the forensic examination.~~

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

15 ~~(7)~~**(6)** The healthcare provider who performed the forensic medical exam and  
16 the **hospital or** healthcare facility shall submit a claim for payment for conducting  
17 a forensic medical exam directly to the Crime Victim Reparations Board to be paid  
18 in strict accordance with the provisions of R.S. 46:1822. A victim **survivor** of a  
19 sexually oriented criminal offense shall not be billed directly or indirectly for the  
20 performance of any forensic medical exam. The provisions of this Paragraph shall  
21 not be interpreted or construed to apply to ~~either of the following:~~

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

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

1           ~~(8)~~**(7)** The department shall make available to every hospital and healthcare  
2 provider licensed under the laws of this state a pamphlet containing an explanation  
3 of the billing process for services rendered pursuant to this Section. Every hospital  
4 and healthcare provider shall provide a copy of the pamphlet to any person presented  
5 for treatment as a victim survivor of a sexually oriented criminal offense.

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

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

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

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

21           C. When a licensed hospital or healthcare provider fails to examine and treat  
22 a person, ~~male or female~~, who has presented ~~himself or herself~~ or who has been  
23 presented as a victim survivor of a sexually oriented criminal offense, the coroner  
24 of the parish or his designee shall examine the alleged victim and, if necessary, make  
25 arrangements for the treatment of the victim survivor. The coroner may select the  
26 hospital or healthcare provider named as the lead entity for sexual assault  
27 examinations in the regional plan required by this Section as his designee to perform  
28 the forensic medical examination. No coroner shall refuse to examine and assist an  
29 alleged victim survivor on the grounds the alleged offense occurred outside of or the

1 ~~victim~~ **survivor** is not a resident of the jurisdiction. Nothing in this Subsection shall  
2 relieve a licensed hospital or healthcare provider of its obligations under Subsections  
3 A and B of this Section.

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

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

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

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

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

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

28 (b) Clearly outline the entity responsible for the purchase of sexual assault  
29 collection kits and the standards and procedures for the storage of the kits prior to

1 use in a forensic medical examination.

2 (c) Clearly outline the standards and procedures for a ~~victim~~ **survivor** to  
3 receive a forensic medical examination, as defined in R.S. 15:622, to ensure access  
4 to such an examination in every parish. The plan shall designate a hospital or  
5 healthcare provider to be the lead entity for sexual assault examinations for adult  
6 ~~victims~~ **survivors** and a hospital or healthcare provider to be the lead entity for  
7 sexual assault examinations for pediatric ~~victims~~ **survivors**. The plan shall also  
8 include specific details directing first responders in the transport of ~~victims~~  
9 **survivors** of a sexually-oriented crime, the appropriate party to perform the forensic  
10 medical examination, and any required training for a person performing a forensic  
11 medical examination.

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

16 (e) Clearly outline the standards and procedures for the transfer of sexual  
17 assault collection kits for both reported and unreported crimes to an appropriate  
18 criminal justice agency or the local law enforcement agency having jurisdiction in  
19 the parish in which the crime was committed, if known, or if unknown, to an  
20 appropriate criminal justice agency or the local law enforcement agency having  
21 jurisdiction in the parish in which the hospital or healthcare provider is located. The  
22 plan shall include a maximum time period for the transfer to occur not to exceed  
23 seven days after the criminal justice agency or local law enforcement agency  
24 receives a request for the transfer from the hospital or healthcare provider.

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

28 (a) The sheriff for each parish within the region.

29 (b) The chief of police for any political subdivision located within the region.

1 (c) All hospitals located within the region.

2 (d) The coroner for each parish within the region.

3 (e) First responder organizations located within the region.

4 (f) Higher education institutions located within the region.

5 (g) The school board for each parish located within the region.

6 (h) Sexual assault advocacy organizations and children's advocacy centers  
7 providing services within the region.

8 (i) The district attorney for each parish within the region or his designee.

9 (j) Each crime lab located within the region.

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

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

15 G.(1) Upon request of a competent adult ~~victim~~ **survivor** of a sexually  
16 oriented criminal offense, the healthcare provider that performed the forensic  
17 medical exam shall provide a reproduction of any written documentation which is  
18 in the possession of the healthcare provider resulting from the forensic medical exam  
19 of the victim. The documentation shall be provided to the ~~victim~~ **survivor** no later  
20 than fourteen days after the healthcare provider receives the request or the healthcare  
21 provider completes the documentation, whichever is later.

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

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

28 (1) "Emergency contraception" means only drugs approved by the United  
29 States Food and Drug Administration with mechanisms of action that likely include

1 the prevention of ovulation, sperm capacitation, or fertilization after sexual  
 2 intercourse and do not meet the definition of a legend drug as defined in R.S.  
 3 40:1060.11.

4 (2) "Forensic medical examination" has the same meaning as defined in R.S.  
 5 15:622.

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

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

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

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

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

21 ~~(5)(6)~~ "Sexually oriented criminal offense" has the same meaning as defined  
 22 in R.S. 15:622.

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

26 Section 2. R.S. 46:1845 is hereby amended and reenacted to read as follows:

27 §1845. ~~Additional rights for victims of sexual assaults; notification of rights~~ **Sexual**

28 **Assault Survivor Bill of Rights**

29 A.(1) **The legislature hereby finds and declares the urgent need to**

1 establish a comprehensive sexual assault survivor bill of rights. A bill of rights  
2 is of paramount importance in addressing the alarming under-reporting of  
3 sexual assault cases and ensuring that survivors receive the support, protection,  
4 and justice they deserve.

5 (2) The legislature further finds that transparency is a core principle that  
6 our justice system should uphold. By enacting a Sexual Assault Survivor Bill of  
7 Rights, barriers that prevent survivors from coming forward and seeking  
8 justice can be broken down. Transparency allows survivors to share their  
9 experiences openly, without fear of judgment or retribution. It empowers them  
10 to reclaim their narratives and break free from the chains of shame and secrecy.  
11 Access to records is essential for transparency and for survivors to navigate the  
12 often complex and overwhelming legal process. It is a matter of justice and  
13 fairness that survivors have the right to access their records, including medical  
14 reports, forensic evidence, and legal documentation. This access enables  
15 survivors to make informed decisions about their healthcare, legal options, and  
16 support services. Granting survivors access to records empowers them to  
17 actively participate in their healing and seek the justice they so rightfully  
18 deserve.

19 (3) The recognition of rights for survivors is crucial in ensuring their  
20 well-being and recovery. The legislature finds that the experiences of survivors  
21 are valid, their voices matter and they deserve to be treated with dignity and  
22 respect.

23 (4) It is therefore the intent of the legislature to provide a Sexual Assault  
24 Survivor Bill of Rights that ensures survivors are treated with dignity, respect,  
25 and compassion.

26 (5) Subsection C of this Section shall be known and may be cited as the  
27 Sexual Assault Survivor Bill of Rights.

28 B.(1) The rights provided to ~~victims~~ of sexual assault **survivors** contained in  
29 this Section attach **regardless of** whether a ~~victim~~ **survivor** seeks the assistance of

1        ~~either a law enforcement official or a healthcare provider. A victim of sexual assault~~  
 2        survivor retains all the rights of these provisions regardless of whether the ~~victim~~  
 3        survivor receives a forensic medical examination or whether a sexual assault  
 4        collection kit is administered.

5                (2) Notwithstanding any other provision of law to the contrary, nothing in  
 6        this Section shall be construed to negate or impair any provision of law relative to  
 7        the mandatory reporting of crimes against children under the age of eighteen years  
 8        or to negate or impair the investigation or prosecution of any crime against children  
 9        under the age of eighteen.

10               (3) Notwithstanding any other provision of law to the contrary, a  
 11               defendant or person accused or convicted of a crime against a survivor does not  
 12               have standing to seek to have their conviction or sentence set aside for any  
 13               violation of the Sexual Assault Survivors' Bill of Rights.

14               B. C. A ~~victim of sexual assault~~ survivor shall have the right to following  
 15               rights:

16               (1) The right not to be prevented from, or charged for, receiving a  
 17               forensic medical exam as provided in R.S. 40:1216.1.

18               (2) The right to have an unreported sexual assault collection kit  
 19               preserved, without charge, for at least twenty years.

20               (3) The right to be informed of any results, updates, status, location, and  
 21               tracking as provided in R.S. 15:624.1.

22               (4) The right to be informed in writing of policies governing the  
 23               collection and preservation of a sexual assault collection kit.

24               (5) The right to be informed in writing from the appropriate official not  
 25               later than sixty days before the date of the intended destruction or disposal of  
 26               a sexual assault collection kit, and upon written request, the ability to be  
 27               granted further preservation of the kit or its probative contents.

28               (6) The right to A ~~victim of sexual assault~~ shall be notified of the ability to  
 29               request the presence of a sexual assault advocate ~~during~~ before the administration

1 of a forensic medical examination or a scheduled interview by a law enforcement  
 2 official if a sexual assault advocate is reasonably available. ~~Nothing in this Section~~  
 3 ~~shall be construed to prohibit the conducting of a forensic medical examination or~~  
 4 ~~an interview by a law enforcement official in the absence of a sexual assault~~  
 5 ~~advocate. All victims of sexual assault shall~~

6 **(7) The right to** have ~~the right to~~ access **to** and obtain a copy of their forensic  
 7 medical examination report at no cost to them pursuant to R.S. 40:1216.1(G).

8 **(8) The right not to be requested or required to submit to a polygraph**  
 9 **examination as a condition of an investigation or prosecution as provided in**  
 10 **R.S. 15:241.**

11 **(9) The right to receive, at no cost, a copy of any records or investigative**  
 12 **reports from law enforcement when those records are provided to the defendant**  
 13 **through discovery or a year after the offense was reported, whichever is sooner.**

14 **(10) The right to have privileged communications with a representative**  
 15 **or employee of a sexual assault center as provided in R.S. 46:2187.**

16 **(11) The right not to have the survivor's DNA obtained from a sexual**  
 17 **assault collection kit compared with other DNA records to investigate the**  
 18 **survivor as provided in R.S. 15:622.1.**

19 **(12) The right to retain any other rights that a survivor may have under**  
 20 **any other law of this state.**

21 **D. Any complaint about a violation of this Section may be submitted**  
 22 **directly to the Senate Select Committee on Women and Children for legislative**  
 23 **oversight.**

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The original instrument was prepared by Dawn Romero Watson. The following digest, which does not constitute a part of the legislative instrument, was prepared by Alan Miller.

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Present law provides special procedures for hospitals and healthcare providers in the event a person presents for treatment as a victim of a sexually oriented criminal offense.

Present law prohibits a hospital or healthcare provider from requiring that the victim report

the offense to law enforcement officials in order to receive medical attention.

Proposed law changes present law references of persons that present themselves or are presented for treatment for sexual assault from "victims" to "survivors".

Proposed law retains present law and adds that a hospital or healthcare provider is also prohibited from requiring that the victim report the offense to law enforcement officials in order for the hospital or healthcare provider to collect evidence of the offense.

Present law provides relative to unreported sexual assaults and provides that any examination and treatment shall include the preservation, in strict confidentiality, for a period of at least one year, of tests or procedures, or both, and samples that may serve as potential evidence.

Present law provides that 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. Requires the hospital or healthcare provider that performed the forensic medical exam to assign the code number and affixed it to the evidence container in lieu of the victim's identifying information to maintain confidentiality.

Proposed law increases the time period for preservation and maintenance of the code records from one year to 20 years.

Present law provides that if the victim wishes to report the incident to law enforcement officials, the hospital staff or healthcare provider is required to contact the appropriate law enforcement agency.

Proposed law retains present law.

Present law provides that if any person 17 years old or younger presents or is presented for treatment as a victim of a sexually oriented criminal offense, the hospital or healthcare provider is required to immediately notify the appropriate law enforcement official.

Proposed law retains present law and changes the term victim to survivor.

Present law provides that if the victim is physically or mentally incapable of making the decision to report, the hospital or healthcare provider is required to immediately notify the appropriate law enforcement officials.

Proposed law retains present law.

Present law prohibits any hospital or healthcare provider from directly billing a victim of a sexually oriented criminal offense for any healthcare services rendered in conducting a forensic medical examination.

Proposed law retains present law.

Present law allows the healthcare provider who performed the forensic medical exam and the healthcare facility to submit a claim for payment for conducting a forensic medical exam directly to the Crime Victim Reparations Board. Provides that a victim of a sexually oriented criminal offense shall not be billed directly or indirectly for the performance of any forensic medical exam.

Present law provides that present law shall not be interpreted or construed to apply to either:

- (1) A healthcare provider billing for any medical services that are not specifically set forth in present law or provided for diagnosis or treatment of the victim for injuries related to the sexual assault.

- (2) A victim of a sexually oriented criminal offense seeking reparations for the costs for any medical services that are not specifically set forth in present law or that are provided for the diagnosis or treatment of the victim for injuries related to the sexual assault.

Proposed law removes the prohibition of present law being interpreted or construed to apply to a healthcare provider billing for medical services not specifically enumerated in present law or for the diagnosis or treatment of the victim for injuries related to the sexual assault.

Proposed law provides that a defendant or person accused or convicted of a crime against a survivor does not have standing to seek to have their conviction or sentence set aside for a violation of the Sexual Assault Survivors' Bill of Rights.

Present law enumerates certain rights for victims of sexual assault that attach whether a victim seeks the assistance of either a law enforcement official or a healthcare provider and regardless of whether the victim receives a forensic medical examination or whether a sexual assault collection kit is administered. Provides that a victim of sexual assault shall have the right:

- (1) To a forensic medical exam.
- (2) To be notified of the ability to request the presence of a sexual assault advocate during the administration of a forensic medical examination or a scheduled interview by a law enforcement official if a sexual assault advocate is reasonably available.
- (3) To have access and obtain a copy of their forensic medical examination report at no cost to them.

Proposed law changes the terminology of "victims of sexual assault" to "sexual assault survivors" and provides for the following additional rights:

- (1) To have an unreported sexual assault collection kit preserved, without charge, for at least 20 years.
- (2) To be informed of any results, updates, status, location, and tracking of the sexual assault collection kit.
- (3) To be informed in writing of policies governing the collection and preservation of a sexual assault collection kit.
- (4) To be informed in writing from the appropriate official, not later than 60 days before the date of the intended destruction or disposal of a sexual assault collection kit and upon written request, the ability to be granted further preservation of the kit or its probative contents.
- (5) The right not to be requested or required to submit to a polygraph examination as a condition of an investigation or prosecution.
- (6) The right to receive, at no cost, a copy of any records or investigative reports from law enforcement when those records are provided to the defendant through discovery or a year after the offense was reported, whichever is sooner.
- (7) The right to have privileged communications with a representative or employee of sexual assault center.
- (8) The right not to have the survivor's DNA obtained from a sexual assault collection kit compared with other DNA records to investigate the survivor.

- (9) The right to retain any other rights that a survivor may have under any other Louisiana law.

Proposed law provides that complaints about a violation of proposed law may be submitted directly to the Senate Select Committee on Women and Children.

Effective August 1, 2024.

(Amends R.S. 40:1216.1 and R.S. 46:1845)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Makes technical changes.
2. Reorganizes present law.
3. Changes references of persons that present or are presented for treatment for sexual assault from "victims" to "survivors".