

2023 Regular Session

SENATE BILL NO. 169

BY SENATOR MIZELL

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

EVIDENCE. Provides for tracking rape kits from collection through conviction. (8/1/23)

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

1 sexual assault collection kit to a forensic laboratory for testing.

2 * * *

3 **§624.1. Submission of sexual assault collection kits**

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

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

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

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

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

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

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

23 **(6) Use electronic technology allowing continuous access.**

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

26 **D. The office of state police may use a phased implementation process in**
27 **order to launch the system and facilitate entry and use of the system for**
28 **required participants. The office of state police may phase initial participation**
29 **according to the region or volume. All entities, including law enforcement and**

1 healthcare providers having custody of sexual assault collection kits shall
2 provide all required information to the tracking system and fully participate in
3 the system no later than July 1, 2024. The office of state police shall submit a
4 report on the current status and plan for launching the system, including the
5 plan for phased implementation, to the Louisiana Sexual Assault Oversight
6 Commission, the Senate Committee on Judiciary B, the House Committee on
7 Administration of Criminal Justice, and the governor no later than January 1,
8 2024.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 **I. For the purposes of this Section:**

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

28 **(2) "Sexual assault collection kit" includes all evidence collected during**
29 **a sexual assault medical forensic examination.**

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

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

6 §1216.1. Procedures for victims of a sexually oriented criminal offense; immunity;
7 regional plans; maximum allowable costs; definitions; documents
8 requested by victim

9 A. * * *
10 (2) * * *

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

21 * * *

22 (7) ~~A~~ **The** healthcare provider **who performed the forensic medical exam**
23 **and the healthcare facility shall** may submit a claim for payment of healthcare
24 services rendered in ~~for~~ conducting a forensic medical exam for a victim of a
25 sexually oriented offense to any of the following: **directly to the Crime Victim**
26 **Reparations Board to be paid in strict accordance with the provisions of R.S.**
27 **46:1822. A victim of a sexually-oriented criminal offense shall not be billed**
28 **directly or indirectly for the performance of any forensic medical exam. The**
29 **provisions of this Paragraph shall not be interpreted or construed to apply to**

1 **either of the following:**

2 (a) **A healthcare provider billing for any medical services that are not**
3 **specifically set forth in this Section or provided for diagnosis or treatment of the**
4 **victim for injuries related to the sexual assault.** ~~With the consent of the victim, to~~
5 ~~the victim's health insurance issuer. Notwithstanding any provision to the contrary,~~
6 ~~a health insurance issuer receiving a claim for covered healthcare services rendered~~
7 ~~in conducting a forensic medical exam shall waive any applicable deductible,~~
8 ~~coinsurance, and copay and the healthcare provider shall submit a claim to the Crime~~
9 ~~Victims Reparations Fund for satisfaction of any noncovered services. In addition,~~
10 ~~the health insurance issuer shall allow the victim to designate any address to be used~~
11 ~~for purposes of transmitting an explanation of benefits or allow the victim to~~
12 ~~designate that no explanation of benefits be generated or transmitted.~~

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

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

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

29 (9) The department shall make available to every hospital and healthcare

1 provider licensed under the laws of this state a pamphlet containing an explanation
2 of the billing process for services rendered pursuant to this Section. Every hospital
3 and healthcare provider shall provide a copy of the pamphlet to any person presented
4 for treatment as a victim of a sexually oriented criminal offense.

5 ~~(10)~~**(9)**(a) The victim shall be provided with information about emergency
6 contraception which shall be developed and made available electronically to all
7 licensed hospitals in this state through the Louisiana Department of Health's website
8 and by paper form upon request to the department.

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

13 * * *

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

16 §1802. Definitions

17 As used in this Chapter:

18 * * *

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

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

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

28 * * *

29 **(14) "Healthcare facility" means a facility or institution providing**

1 **healthcare services, including but not limited to a hospital or other licensed**
2 **inpatient center, ambulatory surgical or treatment center, skilled nursing**
3 **facility, inpatient hospice facility, residential treatment center, diagnostic,**
4 **laboratory, or imaging center, or rehabilitation or other therapeutic health**
5 **setting.**

6 * * *

7 §1807. Powers and duties of board; staff

8 * * *

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

10 * * *

11 (7) Develop, adopt, and promulgate rules in the manner provided in the
12 Administrative Procedure Act and in accordance with the provisions of R.S.
13 46:1806(B). The rules shall contain specific guidelines which shall establish the
14 reasonable costs to be ~~charged~~ **reimbursed** for all healthcare services or expenses
15 ancillary to a forensic medical examination ~~which shall not exceed one thousand~~
16 ~~dollars for each case.~~

17 * * *

18 §1822. Forensic medical exams; reimbursement

19 * * *

20 C. **A request for reimbursement by a healthcare provider or healthcare**
21 **facility for the performance of a forensic medical exam shall not constitute**
22 **reparations and therefore shall be immediately payable and not require**
23 **approval from the board as a condition of payment.** The board shall direct
24 payment to be made to a healthcare provider or healthcare facility no later than
25 ~~ninety~~ **thirty** calendar days from the date the attestation is submitted to the board by
26 the healthcare provider or healthcare facility.

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

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

DIGEST

SB 169 Engrossed

2023 Regular Session

Mizell

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

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

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

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

Proposed law requires the La. State Police to submit an annual report on the tracking system to the La. Sexual Assault Oversight Commission, the Senate Committee on Judiciary B, the House Committee on Admin. of Criminal Justice, and the governor no later than July 31 each year.

Proposed law requires the report to contain the following, both statewide and by jurisdiction:

- (1) The total number of sexual assault collection kits in the system.
- (2) The total and semi-annual number of sexual assault collection kits with completed forensic analysis.
- (3) The number of sexual assault collection kits added to the system in the reporting period.
- (4) The total and semi-annual number of sexual assault collection kits where testing has been requested but not yet completed.
- (5) The average and median length of time for sexual assault collection kits to be submitted for testing after being added to the system.
- (6) The total and semi-annual number of sexual assault collection kits destroyed or removed from the system.
- (7) The total number of sexual assault collection kits waiting six months or longer to be tested.

(8) The total number of sexual assault collection kits waiting over one year to be tested.

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

Proposed law shields from liability any participating public agency, hospital, or law enforcement agency, including its employees, for the release of information or the failure to release information, except when there is gross negligence.

Proposed law permits the La. State Police to adopt rules necessary to implement proposed law.

Proposed law defines "reported sexual assault collection kit", "sexual assault collection kit", and "unreported sexual assault collection kit".

Proposed law clarifies present law by requiring healthcare providers who perform forensic medical exams to create a code number to maintain confidentiality for the victim in an unreported sexual assault.

Proposed law clarifies present law by requiring healthcare providers to be paid or a victim reimbursed for the performance of a forensic medical exam by the Crime Victim Reparations Board (board), except for any treatment not related to the sexual assault.

Proposed law distinguishes the definitions of "healthcare provider" and "healthcare facility".

Proposed law provides that the performance of a forensic medical exam is not reparations and is immediately payable by the board. Proposed law further provides that payment must be made within 30 days of submission for payment.

Present law provides for the powers and duties of the board.

Present law requires the board to develop, adopt, and promulgate rules in the manner provided in the APA and in accordance with present law to contain specific guidelines which establishes the reasonable costs to be charged for all healthcare services or expenses ancillary to a forensic medical examination which shall not exceed \$1,000 for each case.

Proposed law requires the board to promulgate rules in the manner provided in the APA and in accordance with present law to contain specific guidelines which establishes the reasonable costs to be reimbursed for all healthcare services or expenses ancillary to a forensic medical examination.

Effective August 1, 2023.

(Amends R.S. 15:623(A), R.S. 40:1216.1(A)(2)(c) and (7)-(9), and R.S. 46:1802(7), 1807(B)(7), and 1822(C); adds R.S. 15:624.1 and 46:1802(14); repeals R.S. 40:1216.1(A)(10))

Summary of Amendments Adopted by Senate

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

1. Makes technical changes
2. Adds the House Committee on Admin. of Criminal Justice to the list of entities to which the La. State Police must submit reports regarding the implementation of the statewide sexual assault collection kit tracking system and plan.
3. Provides for reimbursement by the Crime Victims Reparations Board for all healthcare services or expenses ancillary to a forensic medical examination.