

2024 Regular Session

SENATE BILL NO. 254

BY SENATOR MIZELL

DOMESTIC VIOLENCE. Provides relative to domestic violence. (8/1/24)

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AN ACT

To amend and reenact R.S. 15:622(A)(2), the introductory paragraph of R.S. 40:1216.1(A), 1216.1(A)(2)(a) and (c), (4)(b), the introductory paragraph of (6), (6)(c), the introductory paragraph of (7), (7)(b), and (8), (C), (E)(1), the introductory paragraph of (2), (2)(b), (c), and (e), and (G)(1), and R.S. 46:1845(A)(1) and (B), and to enact R.S. 40:1216.1(A)(6)(e) and (H)(6), relative domestic violence; to provide for collection of sexual assault kits; to provide for procedures for victims of domestic abuse or sexually oriented crimes; to provide for rights of victims of domestic abuse or sexual assaults; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:622(A)(2) is hereby amended and reenacted to read as follows:

§622. Sexual assault collection kits

A. As used in this Section:

* * *

(2)(a) "Forensic medical examination" means an examination provided to the victim of a **domestic abuse or** sexually oriented criminal offense by a health care provider for the purpose of gathering and preserving evidence of **domestic abuse or**

1 a sexual assault for use in a court of law. A forensic medical examination **for a**
2 **victim of a sexually oriented criminal offense** shall include the following:

3 ~~(a)~~**(i)** Examination of physical trauma.

4 ~~(b)~~**(ii)** Patient interview, including medical history, triage, and consultation.

5 ~~(c)~~**(iii)** Collection and evaluation of evidence, including but not limited to the
6 following:

7 ~~(i)~~**(aa)** Photographic documentation.

8 ~~(ii)~~**(bb)** Preservation and maintenance of chain of custody.

9 ~~(iii)~~**(cc)** Medical specimen collection.

10 ~~(iv)~~**(dd)** When determined necessary by the healthcare provider, an alcohol-
11 and drug-facilitated sexual assault assessment and toxicology screening.

12 **(b) A forensic medical examination for victims of domestic abuse shall**
13 **include, at a minimum, all of the following:**

14 **(i) Patient consent specific to the medical forensic examination.**

15 **(ii) Medical history, including review of systems.**

16 **(iii) History of abuse or assault, including identification of the assailant**
17 **or assailants.**

18 **(iv) Physical assessment.**

19 **(v) Body diagrams.**

20 **(vi) Photography log, if applicable.**

21 **(vii) Samples or evidence collected and submitted to law enforcement, if**
22 **applicable. Samples or evidence shall include sources or sites of collection, time**
23 **of collection, and name of person who collected the samples or evidence. A**
24 **document to record the chain of custody shall be included, even if law**
25 **enforcement uses its own form, a separate chain of custody document shall be**
26 **maintained to include the medical forensic documentation.**

27 **(viii) The discharge plan shall include medications, referral**
28 **appointments, safety planning, and other instructions that shall be provided to**
29 **the patient, including but not limited to a date to return for follow-up**

1 offense shall be explained and offered to the patient. The patient shall decide whether
2 or not such tests shall be conducted.

3 * * *

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

14 * * *

15 (4) * * *

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

23 * * *

24 (6) No hospital or healthcare provider shall directly bill a victim of a
25 **domestic abuse or** sexually oriented criminal offense for any healthcare services
26 rendered in conducting a forensic medical examination as provided for in R.S.
27 15:622. The expenses shall include the following:

28 * * *

29 (c) Laboratory testing directly related to the forensic examination, including

1 drug screening, urinalysis, pregnancy screening, syphilis screening, chlamydia
2 culture, gonorrhea coverage culture, **complete blood count (CBC), comprehensive**
3 **metabolic panel (CMP)**, blood test for HIV screening, hepatitis B and C, herpes
4 culture, and any other sexually transmitted disease testing directly related to the
5 forensic examination.

6 * * *

7 **(e) Any radiologic imaging or testing, including but not limited to x-rays,**
8 **CT scans, and ultrasounds, directly related to the forensic medical examination**
9 **as medically indicated.**

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

17 * * *

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

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

28 * * *

29 C. When a licensed hospital or healthcare provider fails to examine and treat

1 a person, male or female, who has presented himself or herself or who has been
 2 presented as a victim of a sexually oriented criminal offense, the coroner of the
 3 parish or his designee shall examine the alleged victim and, if necessary, make
 4 arrangements for the treatment of the victim. The coroner may select the hospital or
 5 healthcare provider named as the lead entity for sexual assault examinations in the
 6 regional plan required by this Section as his designee to perform the forensic medical
 7 examination. No coroner shall refuse to examine and assist an alleged victim on the
 8 grounds the alleged offense occurred outside of or the victim is not a resident of the
 9 jurisdiction. Nothing in this Subsection shall relieve a licensed hospital or healthcare
 10 provider of its obligations under Subsections A and B of this Section. **The coroner**
 11 **may also select a healthcare provider in the parish to perform domestic violence**
 12 **forensic exams as identified by the regional plan.**

* * *

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

19 (2) When developing the annual response plan, each district shall incorporate
 20 a **domestic abuse and** sexual assault response team protocol to the extent possible;
 21 however, at a minimum, each district shall develop the annual plan to do all of the
 22 following:

* * *

24 (b) Clearly outline the entity responsible for the purchase of **domestic abuse**
 25 **or** sexual assault collection kits and the standards and procedures for the storage of
 26 the kits prior to use in a forensic medical examination.

27 (c) Clearly outline the standards and procedures for a victim to receive a
 28 forensic medical examination, as defined in R.S. 15:622, to ensure access to such an
 29 examination in every parish. The plan shall designate a hospital or healthcare

1 provider to be the lead entity for **domestic abuse and** sexual assault examinations
 2 for adult victims and a hospital or healthcare provider to be the lead entity for sexual
 3 assault examinations for pediatric victims. The plan shall also include specific details
 4 directing first responders in the transport of victims of a **domestic abuse or** sexually-
 5 oriented crime, the appropriate party to perform the forensic medical examination,
 6 and any required training for a person performing a forensic medical examination.

7 * * *

8 (e) Clearly outline the standards and procedures for the transfer of **domestic**
 9 **abuse or** sexual assault collection kits for both reported and unreported crimes to an
 10 appropriate criminal justice agency or the local law enforcement agency having
 11 jurisdiction in the parish in which the crime was committed, if known, or if
 12 unknown, to an appropriate criminal justice agency or the local law enforcement
 13 agency having jurisdiction in the parish in which the hospital or healthcare provider
 14 is located. The plan shall include a maximum time period for the transfer to occur
 15 not to exceed seven days after the criminal justice agency or local law enforcement
 16 agency receives a request for the transfer from the hospital or healthcare provider.

17 * * *

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

25 * * *

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

27 * * *

28 **(6) "Domestic abuse" means deferred adjudication, adjudication**
 29 **withheld, or conviction for the perpetration or attempted perpetration of**

of a sexually oriented criminal offense by a health care provider for the purpose of gathering and preserving evidence of a sexual assault for use in court.

Proposed law adds victims of domestic abuse to the definition of forensic medical examination for the purpose of gathering and preserving evidence of domestic abuse for use in court.

Present law provides for procedures for victims of a sexually oriented criminal offense, immunity, regional plans, maximum allowable costs, definitions, and documents requested by victim.

Proposed law applies the same procedure available to victims of a sexually oriented criminal offenses in present law to victims of domestic abuse.

Proposed law defines "domestic abuse" as deferred adjudication, adjudication withheld, or conviction for the perpetration or attempted perpetration of the following crimes: battery of a dating partner, domestic abuse battery, and domestic abuse aggravated assault.

Present law attaches rights provided to victims of sexual assault contained in present law whether the victim seeks the assistance of either a law enforcement official or a healthcare provider.

Proposed law attaches the same right provided to victims of sexual assault contained in present law to victims of domestic abuse.

Present law provides that victims of sexual assault retain all the rights of these provisions of present law regardless of whether the victim receives a forensic medical examination or whether a sexual assault collection kit is administered.

Proposed law provides the same rights provided to victims of sexual assault contained in present law to victims of domestic abuse.

Present law requires the victim of sexual assault 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.

Proposed law requires the same notification provided to victims of sexual assault contained in present law to victims of domestic abuse.

Effective August 1, 2024.

(Amends R.S. 15:622(A)(2), R.S. 40:1216.1(A)(intro para), 1216.1(A)(2)(a) and (c), (4)(b), (6)(intro para), (6)(c), (7)(intro para), (7)(b), and (8), (C), (E)(1),(2)(intro para), (2)(b), (c), and (e), and (G)(1), and R.S. 46:1845(A)(1) and (B); adds R.S. 40:1216.1(A)(6)(e), and (H)(6))