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DIGEST

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SB 124 Engrossed

2024 Regular Session

Mizell

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 for treatment for sexual assault from "victims" to "survivors".

Proposed law provides requirements relative to the examination and treatment of all sexual assault 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 affix 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 provides that if the survivor wishes to report the incident to law enforcement officials, the hospital staff or healthcare provider is required to contact the appropriate law enforcement agency having jurisdiction over the location where the crime occurred. Provides the same requirements in proposed law if the survivor does not wish to report to law enforcement officials.

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.

Present law prohibits 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".

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the engrossed bill:

- 1. Make technical changes.
- 2. Add requirements relative to the examination and treatment of all sexual assault survivors.
- 3. Change the term "victims" to "survivors".