

RÉSUMÉ DIGEST

ACT 229 (HB 835)

2015 Regular Session

Moreno

Prior law required the coroner or his designee to examine all alleged victims of rape, carnal knowledge, sexual battery, and crime against nature when such cases are under police investigation.

New law requires the coroner to examine all alleged victims of a sexually-oriented criminal offense without the requirement that the case be under police investigation.

New law authorizes the coroner to select the hospital or healthcare provider named as the lead entity for sexual assault examination in the regional plan to act as his designee to perform the forensic medical examination.

Existing law provides for the definition of a "forensic medical examination" to mean an examination of a victim of a sexually-oriented criminal offense by a healthcare provider for the purpose of gathering and preserving evidence of a sexual assault for use in court.

New law adds to the definition of forensic medical examination to include the following:

- (1) Examination of physical trauma.
- (2) Patient interview, including medical history, triage, and consultation.
- (4) Collection and evaluation of evidence, including but not limited to photographic documentation, preservation and maintenance of chain of custody, medical specimen collection, when determined necessary by the healthcare provider, an alcohol and drug facilitated sexual assault assessment and toxicology screening.

New law requires criminal justice agencies to submit a sexual assault kit involving an unknown suspect to a forensic laboratory for testing within 30 days of receipt or within 30 days of receiving an official request from a prosecuting agency.

New law requires all licensed hospitals and healthcare providers to adhere to the procedures set forth in new law in the event that a person presents or is presented for treatment as a victim of a sexually-oriented criminal offense.

New law prohibits a hospital or healthcare provider from directly billing a victim for services rendered in conducting a forensic medical examination or for any healthcare services rendered to a victim as a result of the sexually-oriented criminal offense, which shall include the following:

- (1) Forensic examiner and hospital or healthcare facility services directly related to the exam, including integral forensic supplies.
- (2) Scope procedures directly related to the forensic exam including but not limited to anoscopy and colposcopy.
- (3) Laboratory testing directly related to the forensic examination, including drug screening, urinalysis, pregnancy screening, syphilis screening, chlamydia culture, gonorrhea coverage culture, blood test for HIV screening, hepatitis B and C, herpes culture, and any other sexually transmitted disease testing directly related to the forensic examination.
- (4) Any medication provided during the forensic medical examination.

New law authorizes a healthcare provider to submit a claim for healthcare services rendered in conducting a forensic medical exam for a victim of a sexually-oriented offense to any of the following:

- (1) A victim's health insurance issuer, requiring the insurer to waive any applicable deductible, co-pay, and co-insurance with the remaining noncovered expenses submitted to the Crime Victims Reparations (CVR) Board for reimbursement not to exceed \$1,000.
- (2) The Louisiana Medicaid, Medicare, or Tricare programs for an enrolled victim.
- (3) The CVR Board at the rate as promulgated by the board for healthcare services rendered not to exceed \$1,000.

New law requires the Dept. of Health and Hospitals (DHH) to make available to hospitals and healthcare providers a pamphlet containing an explanation of the billing process for services rendered in conducting a forensic medical examination and for healthcare services rendered to a victim of a sexually-oriented criminal offense. New law further requires hospitals and healthcare providers to provide a copy of the pamphlet to any person presented for treatment as a victim of a sexually-oriented crime.

New law authorizes the hospital or healthcare provider to continue ordinary billing procedures of the hospital or healthcare provider for services not specifically provided for in new law, but authorizes the victim to seek reimbursement for those services through the CVR Board.

New law provides that the failure to comply with the standards of new law may constitute grounds for denial, suspension, or revocation of license by the appropriate licensing board or commission.

New law requires any examination and treatment to include the preservation, in strict confidentiality, for a period of at least one year from the time the victim is presented for treatment, of tests or procedures, or both, and samples that may serve as potential evidence.

New law requires that any evidence collected be assigned a code number and code records be maintained for a period of at least one year from the date the victim is presented for treatment, and further requires the hospital or healthcare provider to assign the code number by affixing to the evidence container a code to be used in lieu of the victim's identifying information to maintain confidentiality.

New law requires DHH, through the medical directors of each of its nine regional health service districts, to coordinate an annual sexual assault response plan for each district. Further requires each district to submit a proposed plan for review by the secretary of DHH no later than Nov. 1st of each year. An approved plan shall become effective Feb. 1st of the following year.

New law requires each district, when developing the annual response plan with minimum requirements, to incorporate a Sexual Assault Response Team protocol to the extent possible.

New law requires DHH, when developing the annual response plan, to solicit input of interested stakeholders in the region, and requires the annual response plan to be approved by the stakeholders.

New law requires all sexual assault collection kits used in a forensic medical examination to meet the standards developed by DHH and the Dept. of Public Safety and Corrections.

Existing law provides relative to the CVR Board's application procedures and requirements for victims of a sexually-oriented criminal offense and definitions relative to the CVR Board.

Existing law defines "claimant" to mean a victim or dependent of a deceased victim, legal representative of either, an intervenor, or in the event of death, the person who legally or voluntarily assumes the deceased's medical and funeral obligations related to the crime.

New law retains existing law and expands the definition of "claimant" to include a healthcare provider who provides services associated with a forensic medical examination.

New law provides for the definitions of "sexually-oriented criminal offense", "healthcare provider", and "healthcare services".

New law requires that an application for reparations for a victim of a sexually-oriented criminal offense shall be filed in writing with the board within one year after the date of injury, death, or property loss or for a longer period as determined by the board.

Existing law prohibits an award of reparations if the board finds that the crime was not timely reported in accordance with existing law or that the claimant failed to cooperate with requests from law enforcement officials.

New law provides an exception to existing law, which excludes victims of a sexual offense from reporting such crimes to law enforcement for purposes of filing a valid application for reparations.

New law requires a claimant to submit certification from a healthcare provider that a forensic medical examination was conducted on the victim and requires the healthcare provider to submit such certification when requested by a claimant.

New law requires the board to promulgate rules and regulations relative to guidelines for the costs and expenses associated with forensic medical examinations and to provide a cap of \$1,000 for each examination.

Existing law authorizes the reduction or denial of an award if it is determined by the board that the behavior of the victim at the time of the crime bears some responsibility to the injury, death, or property loss except for victims of human trafficking-related offenses.

New law provides an additional exception to existing law for victims of a sexually-oriented criminal offense.

New law requires hospitals and healthcare providers to provide victims of sexually-oriented criminal offenses a pamphlet giving notification of the billing process and procedures available through the board.

New law provides for the provisions of new law to apply to any victim of a sexually-oriented criminal offense that occurred on or after January 13, 2015.

Effective June 23, 2015.

(Amends R.S. 13:5713(F), R.S. 15:622(A)(2) and (4), and R.S. 46:1802(4) and (7)-(10), 1806(B), (C), and (D), 1809(B)(3) and (4)(a), and 1817(A); Adds R.S. 15:623, R.S. 40:1300.41, and R.S. 46:1802(10.1), (11), (12), and (13), 1806(E), and 1807(B)(7); Repeals R.S. 40:2109.1)