## SLS 24RS-359

### ORIGINAL

2024 Regular Session

SENATE BILL NO. 254

BY SENATOR MIZELL

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

1	AN ACT
2	To amend and reenact R.S. 15:622(A)(2), the introductory paragraph of R.S. 40:1216.1(A),
3	1216.1(A)(2)(a) and (c), (4)(b), the introductory paragraph of (6), (6)(c), the
4	introductory paragraph of $(7)$ , $(7)(b)$ , and $(8)$ , $(C)$ , $(E)(1)$ , the introductory paragraph
5	of (2), (2)(b), (c), and (e), and (G)(1), and R.S. 46:1845(A)(1) and (B), and to enact
6	R.S. 40:1216.1(A)(6)(e) and (H)(6), relative domestic violence; to provide for
7	collection of sexual assault kits; to provide for procedures for victims of domestic
8	abuse or sexually oriented crimes; to provide for rights of victims of domestic abuse
9	or sexual assaults; and to provide for related matters.
10	Be it enacted by the Legislature of Louisiana:
11	Section 1. R.S. 15:622(A)(2) is hereby amended and reenacted to read as follows:
12	§622. Sexual assault collection kits
13	A. As used in this Section:
14	* * *
15	(2)(a) "Forensic medical examination" means an examination provided to the
16	victim of a <b>domestic abuse or</b> sexually oriented criminal offense by a health care
17	provider for the purpose of gathering and preserving evidence of <b>domestic abuse or</b>

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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	photography.
2	(ix) Informed consent shall be formally documented in the medical
3	forensic record. At a minimum, the consent language shall address all of the
4	following topics:
5	(aa) Consent for treatment.
6	(bb) Photography.
7	(cc) Collection of samples.
8	(dd) Written authorization to release information to law enforcement or
9	other victim services agencies that the patient may be working with, as well as
10	the release of other items, including but not limited to swabs from suspected bite
11	wounds or damaged clothing to law enforcement.
12	* * *
13	Section 2. The introductory paragraph of R.S. 40:1216.1(A), 1216.1(A)(2)(a) and (c),
14	(4)(b), the introductory paragraph of $(6)$ , $(6)(c)$ , the introductory paragraph of $(7)$ , $(7)(b)$ , and
15	(8), (C), (E)(1), the introductory paragraph of (2), (2)(b), (c), and (e), and (G)(1), are hereby
16	amended and reenacted and R.S. 40:1216.1(A)(6)(e) and (H)(6) are hereby enacted to read
17	as follows:
18	§1216.1. Procedures for victims of a <b>domestic abuse or</b> sexually oriented criminal
19	offense; immunity; regional plans; maximum allowable costs;
20	definitions; documents requested by victim
21	A. All licensed hospitals and healthcare providers in Louisiana shall adhere
22	to the following procedures in the event that a person, male or female, presents
23	himself or herself or is presented for treatment as a victim of a <b>domestic abuse or</b>
24	sexually oriented criminal offense:
25	* * *
26	(2)(a) If the victim does not wish to report the incident to law enforcement
27	officials, the victim shall be examined and treated as any other patient. Any injuries
28	requiring medical attention shall be treated in the standard manner. Tests and
29	treatments exclusive to a victim of a <b>domestic abuse or</b> sexually oriented criminal

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

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(c) Any evidence collected <u>with a sexual assault collection kit</u> 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 from the date the victim is presented for treatment. The hospital or healthcare provider that performed the forensic medical exam shall 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. The code number shall be used for identification should the victim later choose to report the incident. The healthcare provider shall provide all information required by the statewide tracking system 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 <u>domestic abuse or sexually oriented criminal offense for any healthcare services</u>
 26 rendered in conducting a forensic medical examination as provided for in R.S.
 27 15:622. The expenses shall include the following:

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

\*

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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	<u>CT scans, and ultrasounds, directly related to the forensic medical examination</u>
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 <u>domestic abuse or</u> 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 <b>domestic abuse or</b> 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 <b>domestic abuse or</b> sexually oriented criminal offense.
28	* * *
29	C. When a licensed hospital or healthcare provider fails to examine and treat

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2       presented as a victim of a sexually oriented criminal offense, the         3       parish or his designee shall examine the alleged victim and, if n         4       arrangements for the treatment of the victim. The coroner may select         5       healthcare provider named as the lead entity for sexual assault exart         6       regional plan required by this Section as his designee to perform the f         7       examination. No coroner shall refuse to examine and assist an allege         8       grounds the alleged offense occurred outside of or the victim is not a         9       jurisdiction. Nothing in this Subsection shall relieve a licensed hospi         10       provider of its obligations under Subsections A and B of this Sectio         11       may also select a healthcare provider in the parish to perform dor         12       forensic exams as identified by the regional plan.         13       * * *         14       E.(1) The Louisiana Department of Health, through the med         15       each of its nine regional health service districts, shall coordinate an a         16       abuse and sexual assault response plan for each district. Each district         17       a proposed plan for review by the secretary no later than Novemb         18       year. An approved plan shall become effective February first of the         19       (2) When developing the annual resp
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25 <u>or</u> sexual assault collection kits and the standards and procedures for
26 the kits prior to use in a forensic medical examination.
27 (c) Clearly outline the standards and procedures for a vict
28 forensic medical examination, as defined in R.S. 15:622, to ensure a
29 examination in every parish. The plan shall designate a hospita

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1provider to be the lead entity for domestic abuse and sexual assault examinations2for adult victims and a hospital or healthcare provider to be the lead entity for sexual3assault examinations for pediatric victims. The plan shall also include specific details4directing first responders in the transport of victims of a domestic abuse or sexually-5oriented crime, the appropriate party to perform the forensic medical examination,6and any required training for a person performing a forensic medical examination.

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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 unknown, to an appropriate criminal justice agency or the local law enforcement 12 13 agency having jurisdiction in the parish in which the hospital or healthcare provider is located. The plan shall include a maximum time period for the transfer to occur 14 not to exceed seven days after the criminal justice agency or local law enforcement 15 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.

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

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1	battery of a dating partner (R.S. 14: 34.9), domestic abuse battery (R.S.
2	14:35.3), and domestic abuse aggravated assault (R.S. 14:37.7).
3	* * *
4	Section 3. R.S. 46:1845(A)(1) and (B) are hereby amended and reenacted to read as
5	follows:
6	§1845. Additional rights for victims of domestic abuse or sexual assaults;
7	notification of rights
8	A.(1) The rights provided to victims of domestic abuse or sexual assault
9	contained in this Section attach whether a victim seeks the assistance of either a law
10	enforcement official or a healthcare provider. A victim of domestic abuse or sexual
11	assault retains all the rights of these provisions regardless of whether the victim
12	receives a forensic medical examination or whether a sexual assault collection kit is
13	administered.
14	* * *
15	B. A victim of <b>domestic abuse or</b> sexual assault shall have the right to a
16	forensic medical exam as provided in R.S. 40:1216.1. A victim of domestic abuse
17	or sexual assault shall be notified of the ability to request the presence of a domestic
18	violence advocate or sexual assault advocate during the administration of a forensic
19	medical examination or a scheduled interview by a law enforcement official if a
20	sexual assault advocate is reasonably available. Nothing in this Section shall be
21	construed to prohibit the conducting of a forensic medical examination or an
22	interview by a law enforcement official in the absence of a sexual assault advocate.
23	All victims of sexual assault shall have the right to access and obtain a copy of their
24	forensic medical examination report at no cost to them pursuant to R.S.
25	40:1216.1(G).

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alan Miller.

## SB 254 Original

### DIGEST 2024 Regular Session

Mizell

Present law defines "forensic medical examination" as an examination provided to the victim

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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.

<u>Proposed law</u> 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.

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

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

<u>Proposed law</u> 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.

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

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

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

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

<u>Present law</u> 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.

<u>Proposed law</u> requires the same notification provided to victims of sexual assault contained in <u>present law</u> 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))