

2020 Regular Session

HOUSE BILL NO. 744

BY REPRESENTATIVE MOORE

CRIMINAL/VICTIMS: Provides relative to the rights of sexual assault victims

1 AN ACT  
2 To enact Chapter 28-E of Title 26 of the Louisiana Revised Statutes of 1950, to be  
3 comprised of R.S. 46:2191 through 2199.4, and R.S. 15:556(C) through (G), relative  
4 to the rights of victims of sexual offenses; to provide for the Louisiana Sexual  
5 Assault Survivors' Bill of Rights; to provide for certain rights of survivors of sexual  
6 assault; to provide for certain rights of survivors of sexual assault during a medical  
7 evidentiary or physical examination; to provide for certain rights of survivors of  
8 sexual assault during an interview with law enforcement, prosecutors, or defense  
9 attorneys; to provide for a right to counsel; to provide for certain rights of sexual  
10 assault survivors during legal procedures; to provide for the attachment and duration  
11 of rights; to provide relative to the confidentiality and admissibility of  
12 communications between a sexual assault survivor and certain persons; to provide  
13 relative to medical evidentiary examinations of sexual assault survivors; to require  
14 certain notice to be given to sexual assault survivors; to provide for a civil cause of  
15 action for sexual assault survivors; to provide for a sexual assault forensic evidence  
16 kit tracking system; to provide for the public availability of certain data; to provide  
17 relative to the duties of law enforcement, medical providers, and crime laboratories;  
18 to provide relative to the authority of the attorney general; to provide relative to the  
19 duties of the Louisiana Commission on Law Enforcement and Administration of  
20 Criminal Justice; to provide relative to the duties of the Louisiana State Police Crime

1 Laboratory; to provide relative to the duties of the Louisiana Sexual Assault  
2 Oversight Commission; to provide for definitions; and to provide for related matters.

3 Be it enacted by the Legislature of Louisiana:

4 Section 1. Chapter 28-E of Title 26 of the Louisiana Revised Statutes of 1950,  
5 comprised of R.S. 46:2191 through 2199.4, is hereby enacted to read as follows:

6 CHAPTER 28-E. SEXUAL ASSAULT SURVIVORS' BILL OF RIGHTS

7 §2191. Short title

8 This Chapter shall be known and may be cited as the "Louisiana Sexual  
9 Assault Survivors' Bill of Rights".

10 §2192. Definitions

11 For purposes of this Chapter:

12 (1) "Crime laboratory" means a laboratory that conducts a forensic analysis  
13 of physical evidence in criminal matters.

14 (2) "Law enforcement officer" means any employee of the state, a  
15 municipality, a sheriff, or other public agency, whose permanent duties actually  
16 include the making of arrests, the performing of searches and seizures, or the  
17 execution of criminal warrants, and is responsible for the prevention or detection of  
18 crime or for the enforcement of the penal, traffic, or highway laws of this state.

19 (3) "Medical provider" means any qualified health care professional,  
20 hospital, other emergency medical facility, or other facility conducting a medical  
21 evidentiary or physical examination of the survivor.

22 (4) "Sexual assault counselor" means any person who is engaged by any  
23 office, center, or institution referred to as a sexual assault or rape crisis center or  
24 similar program to render advice, counseling, advocacy, or assistance to victims.

25 "Sexual assault counselor" includes any licensed professional counselor or social  
26 worker providing services to a sexual assault survivor.

27 (5) "Sexual assault forensic evidence" means any human biological specimen  
28 or specimens collected by a medical provider during a forensic medical examination  
29 from an alleged sexual assault survivor, including but not limited to a toxicology kit.

1           (6) "Sexual assault survivor" or "survivor" means any person who is a victim  
2           of a sex offense as defined by R.S. 15:541 and, if the survivor is incompetent,  
3           deceased, or a minor who is unable to consent to counseling services under, the  
4           parent, guardian, spouse, or any other person related to the survivor by consanguinity  
5           or affinity to the second degree, or any other lawful representative of the survivor,  
6           unless such person is the alleged assailant.

7           §2193. Attachment and duration of rights

8           A. The rights provided to survivors pursuant to this Chapter attach whenever  
9           a survivor is subject to a medical evidentiary or physical examination or whenever  
10           a survivor is subject to an interview by a law enforcement officer, prosecutor, or  
11           defense attorney, whichever is earlier.

12           B. A survivor retains all the rights of this Chapter at all times regardless of  
13           whether the survivor agrees to participate in the criminal justice system or in family  
14           court and regardless of whether the survivor consents to a medical evidentiary or  
15           physical examination to collect sexual assault forensic evidence.

16           §2194. Right to a sexual assault counselor and a support person

17           A. A survivor has the right to consult with a sexual assault counselor, and  
18           to have a support person of the survivor's choosing present, during any medical  
19           evidentiary or physical examination and during any interview by a law enforcement  
20           officer, prosecutor, or defense attorney. The survivor retains this right even if the  
21           survivor has waived the right in a previous examination or interview.

22           B.(1) Communications between a survivor and a sexual assault counselor are  
23           confidential and privileged, including information disclosed in the presence of any  
24           third persons during a medical evidentiary or physical examination or during any  
25           interview by a law enforcement officer, prosecutor, or defense attorney.

26           (2) The presence of a sexual assault counselor does not operate to defeat any  
27           existing privilege otherwise guaranteed by law.

28           C. A survivor's waiver of the right to a sexual assault counselor is privileged.

1           D. Notwithstanding any waiver of privilege, a survivor's communications  
2           with a sexual assault counselor, or waiver of the right to a sexual assault counselor,  
3           shall not be admissible into evidence for any purpose except with the consent of the  
4           survivor.

5           §2195. Collection of sexual assault forensic evidence

6           A. No costs incurred by a medical provider for the medical evidentiary  
7           examination portion of the examination of a survivor shall be charged directly or  
8           indirectly to the survivor.

9           B. Before a medical provider commences a medical evidentiary or physical  
10          examination of a survivor, the medical provider shall inform the survivor of the  
11          following:

12           (1) The survivor's rights pursuant to this Chapter and other relevant law in  
13           a document to be developed by the Louisiana Commission on Law Enforcement and  
14           Administration of Criminal Justice, which shall be signed by the survivor of sexual  
15           assault to confirm receipt.

16           (2) The survivor's right to consult with a sexual assault counselor, to be  
17           summoned by the medical provider before the commencement of the medical  
18           evidentiary or physical examination, unless no sexual assault counselor can be  
19           summoned in a reasonably timely manner; and to have present at least one support  
20           person of the victim's choosing.

21           (3) The ramifications of delaying the medical evidentiary or physical  
22           examination if either the sexual assault counselor or support person cannot be  
23           summoned in a timely manner.

24           (4) The survivor's right to shower at no cost after the medical evidentiary or  
25           physical examination, unless showering facilities are not available.

26           §2196. Interview with a law enforcement officer, prosecutor, or defense attorney

27           A. Before commencing an interview of a survivor, a law enforcement  
28           officer, prosecutor, or defense attorney shall inform the survivor of the following:

1           (1) The survivor's rights pursuant to this Chapter and other relevant law by  
2           providing the survivor with a document to be developed by the Louisiana  
3           Commission on Law Enforcement and Administration of Criminal Justice, which  
4           document shall be signed by the victim of sexual assault to confirm receipt.

5           (2) The survivor's right to consult with a sexual assault counselor during any  
6           interview by a law enforcement officer, prosecutor, or defense attorney, to be  
7           summoned by the interviewer before the commencement of the interview, unless no  
8           sexual assault counselor can be summoned in a reasonably timely manner.

9           (3) The survivor's right to have a support person of the survivor's choosing  
10          present during any interview by a law enforcement officer, prosecutor, or defense  
11          attorney, unless the law enforcement officer, prosecutor, or defense attorney  
12          determines in his good faith professional judgment that the presence of that  
13          individual would be detrimental to the purpose of the interview.

14          (4) For interviews by a law enforcement officer, the survivor's right to be  
15          interviewed by a law enforcement officer of the gender of the survivor's choosing.  
16          If no law enforcement officer of that gender is reasonably available, the survivor may  
17          be interviewed by an available law enforcement officer only upon the survivor's  
18          consent.

19          B. A law enforcement officer, prosecutor, or defense attorney shall not, for  
20          any reason, discourage a survivor from receiving a medical evidentiary or physical  
21          examination.

22          §2197. Right to counsel

23          A survivor retains the right to have counsel present during all stages of any  
24          medical examination, interview, investigation, or other interaction with  
25          representatives from the legal or criminal justice systems within the state as provided  
26          in R.S. 46:2195 and 2196. Treatment of the survivor shall not be affected nor altered  
27          in any way as a result of the survivor's decision to exercise this right to have counsel  
28          present during any interaction with the legal or criminal justice systems within the  
29          state.

1        §2198. Analysis of sexual assault forensic evidence

2            A. A survivor has the right to prompt analysis of sexual assault forensic  
3        evidence.

4            B.(1) A medical provider shall, upon conducting a medical evidentiary  
5        examination to collect sexual assault forensic evidence, inform the survivor that:

6            (a) The sexual assault forensic evidence shall be transported to the crime  
7        laboratory and analyzed within ninety days, unless the survivor requests in writing  
8        at any time prior to analysis for the crime laboratory to defer analysis of the sexual  
9        assault forensic evidence.

10          (b) The crime laboratory shall retain the sexual assault forensic evidence  
11        until the time limitation for the institution of prosecution has elapsed or until the  
12        survivor reaches forty-eight years of age if the survivor was under the age of  
13        seventeen years when the assault occurred.

14          (c) If the survivor has requested deferred analysis, as described in  
15        Subparagraph (a) of this Paragraph, the survivor may request the crime laboratory  
16        to analyze the sexual assault forensic evidence at any later date before the expiration  
17        of the retention period defined in Subparagraph (b) of this Paragraph.

18          (2) A medical provider shall, within twenty-four hours after collecting any  
19        sexual assault forensic evidence, notify the law enforcement agency having  
20        jurisdiction over the alleged assault.

21          (3) A law enforcement agency that receives notice under Paragraph (2) of  
22        this Subsection shall take possession of the sexual assault forensic evidence from the  
23        medical provider. Upon taking such possession, the law enforcement agency shall:

24          (a) Submit the sexual assault forensic evidence to the crime laboratory within  
25        seven days after receiving that notice and assign a criminal complaint number to that  
26        evidence within five days after receiving that notice.

27          (b) If the law enforcement agency determines that it does not have  
28        jurisdiction over the alleged assault, it shall notify the law enforcement agency  
29        having proper jurisdiction of that fact within seven days after taking possession of

1 the sexual assault forensic evidence. After receiving such notice, the law  
2 enforcement agency having proper jurisdiction shall take possession of the sexual  
3 assault forensic evidence and submit it to the crime laboratory within five days.

4 (4) Any law enforcement agency that submits sexual assault forensic  
5 evidence to a crime laboratory shall, immediately following such submission, notify  
6 the survivor of the name, address, and telephone number of the crime laboratory.

7 The law enforcement agency shall also notify the survivor of the information listed  
8 in Paragraphs (1)(a) through (c) of this Subsection.

9 (5) A crime laboratory that receives sexual assault forensic evidence on or  
10 after August 1, 2020, shall analyze that evidence and upload any available DNA  
11 profiles into CODIS, as defined by R.S. 15:603, within ninety days of receipt of that  
12 evidence, unless the survivor has requested in writing for the crime laboratory to  
13 defer analysis of that evidence.

14 C. A crime laboratory shall retain all sexual assault forensic evidence until  
15 the time limitation for the institution of prosecution has elapsed or until the survivor  
16 reaches forty-eight years of age if the survivor was under the age of seventeen years  
17 when the assault occurred.

18 D. A survivor has the right to be informed, upon the survivor's request, of  
19 the results of the analysis of the survivor's sexual assault forensic evidence, whether  
20 the analysis yielded a DNA profile, and whether the analysis yielded a DNA match,  
21 either to the named perpetrator or to a suspect already in CODIS. The survivor has  
22 the right to receive this information through a secure and confidential message in  
23 writing from the crime laboratory. This message must include the telephone number  
24 of the crime laboratory so that the survivor can call regarding the results.

25 E.(1) A defendant or person accused or convicted of a crime against a  
26 survivor shall have no standing to object to any failure to comply with this Section,  
27 and the failure to provide a right or notice to a survivor under this Section may not  
28 be used by a defendant to seek to have the conviction or sentence set aside.

1           (2) The failure of a law enforcement agency to take possession of any sexual  
2           assault forensic evidence as provided in this Chapter or to submit that evidence for  
3           analysis within the time prescribed under this Chapter does not alter the authority of  
4           a law enforcement agency to take possession of that evidence or to submit that  
5           evidence to the crime laboratory, and does not alter the authority of the crime  
6           laboratory to accept and analyze the evidence or to upload the DNA profile obtained  
7           from that evidence into CODIS. The failure to comply with the requirements of this  
8           Chapter does not constitute grounds in any criminal or civil proceeding for  
9           challenging the validity of a database match or of any database information, and any  
10          evidence of that DNA record shall not be excluded by a court on those grounds.

11           F. No sexual assault forensic evidence shall be used for any of the following:

12           (1) To prosecute a survivor for any misdemeanor crimes or any crime  
13           defined under the Uniform Controlled Dangerous Substances Law.

14           (2) As a basis to search for further evidence of any unrelated misdemeanor  
15           crimes or any crime under the Uniform Controlled Dangerous Substances Law, that  
16           may have been committed by the survivor.

17          §2199. Notice to survivors

18           A. Upon initial interaction with a survivor, a law enforcement officer or  
19           medical provider shall provide the survivor with a document to be developed by the  
20           Louisiana Commission on Law Enforcement and Administration of Criminal Justice  
21           that explains the rights of survivors, pursuant to this Chapter and other relevant law,  
22           in clear language that is comprehensible to a person proficient in English at the fifth  
23           grade level, accessible to persons with visual disabilities, and available in all major  
24           languages of the state. This document shall include, but is not limited to:

25           (1) A clear statement that a survivor is not required to participate in the  
26           criminal justice system or to receive a medical evidentiary or physical examination  
27           in order to retain the rights provided by this Chapter and other relevant law.

28           (2) Telephone and internet means of contacting nearby rape crisis centers  
29           and sexual assault counselors.



1           (3) Forms of law enforcement protection available to the survivor, including  
2           temporary restraining orders, and the process to obtain such protection.

3           (4) Instructions for requesting the results of the analysis of the survivor's  
4           sexual assault forensic evidence.

5           (5) State and federal compensation funds for medical and other costs  
6           associated with the sexual assault, and information on any municipal, state, or federal  
7           right to restitution for survivors in the event of a criminal trial.

8           B. A law enforcement officer shall, upon written request by a survivor,  
9           furnish, within ten days of receiving such request, a free, complete, and unaltered  
10           copy of all law enforcement reports concerning the sexual assault, regardless of  
11           whether the report has been closed by the law enforcement agency.

12           C. A prosecutor shall, upon written request by a survivor, provide all of the  
13           following:

14           (1) Timely notice of any pretrial disposition of the case.

15           (2) Timely notice of the final disposition of the case, including the  
16           conviction, sentence, and place and time of incarceration.

17           (3) Timely notice of a convicted defendant's location, including whenever  
18           the defendant receives a temporary, provisional, or final release from custody,  
19           escapes from custody, is moved from a secure facility to a less-secure facility, or  
20           re-enters custody.

21           (4) A convicted defendant's information on a sex offender registry, if any.

22           §2199.1. Cause of action

23           A. Each person, corporation, agency, officer, or employee who has a  
24           responsibility or responsibilities to survivors under this Chapter or other applicable  
25           law shall make reasonable efforts to become informed about these responsibilities  
26           and to ensure that survivors and witnesses receive such information and services to  
27           which they may be entitled under applicable law.

1           B. Any failure to make such efforts, or any violation of the enumerated rights  
2           or provisions described in this Chapter, shall be considered a tortious act causing  
3           injury to person or property within the state.

4           C. Whenever the attorney general shall believe from evidence satisfactory  
5           to the attorney general that any person, corporation, agency, officer, or employee has  
6           failed to make such efforts, or has violated any of the enumerated rights and  
7           provisions contained in this Chapter, the attorney general may bring an action in the  
8           name and on behalf of the people of Louisiana to enjoin such acts or practices,  
9           including through mandatory injunction, and to obtain restitution for any survivors  
10          affected directly or indirectly from any such act or omission.

11          D. Before any violation of this Chapter is sought to be enjoined, the attorney  
12          general shall be required to give the person against whom such proceeding is  
13          contemplated notice by certified mail and an opportunity to show in writing within  
14          five business days after receipt of notice why proceedings should not be instituted  
15          against him, unless the attorney general shall find, in any case in which he seeks  
16          preliminary relief, that to give such notice and opportunity is not in the public  
17          interest.

18          E. In any such action, it shall be a complete defense that the act or practice  
19          is subject to and complies with the rules and regulations of, and the statutes  
20          administered by any official department, division, commission or agency of the  
21          United States as such rules, regulations or statutes are interpreted by such  
22          department, division, commission or agency or the federal courts.

23          F. In connection with any proposed proceeding under this Section, the  
24          attorney general is authorized to take proof and make a determination of the relevant  
25          facts, and to issue subpoenas in accordance with the civil practice law and rules.

26          G. This Section shall apply to all violations of this Chapter, whether or not  
27          subject to any other law of this state, and shall not supersede, amend, or repeal any  
28          other law of this state under which the attorney general is authorized to take any  
29          action or conduct any inquiry pursuant to this Chapter.

1           H. In addition to the right of action granted to the attorney general pursuant  
2           to this Section, any person who has been injured by reason of any violation of this  
3           Chapter or the enumerated rights and provisions contained in this Chapter may bring  
4           an action in his own name to enjoin, including through mandatory injunction, such  
5           unlawful act or practice, an action to recover actual damages or one thousand dollars,  
6           whichever is greater, or both such actions. The court may, in its discretion, increase  
7           the award of damages to an amount not to exceed three times the actual damages up  
8           to six thousand dollars, if the court finds the defendant willfully or knowingly  
9           violated this Chapter.

10           I. The court may award reasonable attorney fees to a prevailing plaintiff.

11           §2199.2. Tracking system for sexual assault forensic evidence kits

12           The Louisiana State Police Crime Laboratory in consultation with the  
13           Louisiana Commission on Law Enforcement and Administration of Criminal Justice  
14           shall by August 1, 2021, develop a system by which a sexual assault survivor may  
15           track by telephone or internet, the location and status of the survivor's sexual assault  
16           forensic evidence kit. Once established, any medical provider who administers a  
17           sexual assault forensic evidence kit shall furnish the sexual assault survivor with  
18           written information about how to use and access the tracking system.

19           §2199.3. Public availability of certain data

20           The Louisiana Commission on Law Enforcement and Administration of  
21           Criminal Justice shall make the information reported pursuant to R.S. 15:624  
22           publicly available on the commission's website.

23           §2199.4. Legal procedures

24           A. In either a civil or criminal case relating to the sexual assault, a survivor  
25           has the right to be reasonably protected from the defendant and persons acting on  
26           behalf of the defendant.

27           B. A survivor has the right to be free from intimidation, harassment, and  
28           abuse. A court shall make reasonable efforts to provide the survivor and the  
29           survivor's family members, friends, and witnesses with a secure waiting area or room

1 that is separate from the waiting area of the defendant and the defendant's family  
2 members, friends, witnesses, and attorneys and separate from the prosecutor's office.

3 C. A survivor has the right to be treated with fairness and respect for the  
4 survivor's privacy and dignity. A court shall, upon the request of the survivor, clear  
5 the courtroom of all persons when the survivor is testifying regarding the sexual  
6 assault in any civil or criminal trial, except that parties to the cause and their  
7 immediate families or guardians, attorneys and personnel working at the attorneys'  
8 direction, officers of the court, jurors, newspaper reporters or broadcasters, court  
9 reporters, and, with the consent of the survivor, witnesses designated by the  
10 prosecutor may remain in the courtroom.

11 D. A survivor shall not be required to submit to a polygraph examination as  
12 a prerequisite to filing an accusatory pleading or to participating in any part of the  
13 criminal justice system.

14 E. A survivor has the right to be heard through a survivor impact statement  
15 at any proceeding involving a post-arrest release decision, plea, sentencing,  
16 post-conviction release decision, or any other proceeding where a right of the  
17 survivor is at issue. The survivor also has the right to provide a sentencing  
18 recommendation to the probation department official conducting a pre-sentence  
19 investigation.

20 Section 2. R.S. 15:556(C) through (G) are hereby enacted to read as follows:

21 §556. Duties of the commission

22 \* \* \*

23 C. In addition to the duties set forth in Subsection A of this Section, the  
24 commission shall study nationally recognized best practices and make  
25 recommendations regarding:

26 (1) The development and implementation of an effective mechanism for  
27 submitting, tracking, and investigating complaints regarding the handling of, or  
28 response to, a sexual assault report or investigation by any agency or organization  
29 involved in the response.

1           (2) Whether a need exists for additional sexual assault counselors for victims  
2           of sexual assault, and if such a need does exist, the commission shall:

3           (a) Develop criteria to certify sexual assault counselors.

4           (b) Create a plan for how the state can provide, in conjunction with rape  
5           crisis centers, victims' advocates organizations, and other relevant programs,  
6           additional sexual assault counselors to meet the needs identified.

7           (c) Determine the cost of funding such a plan.

8           (3) Whether a need exists to expand the right to a sexual assault counselor  
9           beyond the medical examination and law enforcement interview settings as provided  
10           in Chapter 28-E of Title 46 of the Louisiana Revised Statutes of 1950, and if such  
11           a need does exist, the commission shall:

12           (a) Identify the scope and nature of the need.

13           (b) Make recommendations on how best to fill that need, whether  
14           legislatively or otherwise.

15           (4) Whether a need exists to provide for ongoing evaluation of the  
16           implementation of these rights, and if such a need does exist, the commission shall:

17           (a) Identify the scope and nature of the need.

18           (b) Make recommendations on how best to fill that need, whether  
19           legislatively or otherwise.

20           (5) Whether there is an ongoing need to maintain the commission after it  
21           issues its final report, pursuant to Subsection F of this Section.

22           D. In fulfilling its requirements under Subsection C of this Section, the  
23           commission shall, in conjunction with the Louisiana Commission on Law  
24           Enforcement and Administration of Criminal Justice, collect data regarding sexual  
25           assault reporting, arrest, prosecution rates, access to sexual assault victims services,  
26           and any other data important for its deliberations and recommendations.

27           E. In fulfilling its requirements under Subsection C of this Section, the  
28           commission shall collect feedback from stakeholders, practitioners, and leadership  
29           throughout the state and local law enforcement, victim services, forensic science

1 practitioners, and health care communities to inform development of future best  
2 practices or clinical guidelines regarding the care and treatment of survivors.

3 F. No later than January 1, 2022, the commission shall produce a report that  
4 includes the result of the assessments, developments, and recommendations  
5 completed pursuant to Subsections C, D, and E of this Section. The commission shall  
6 transmit the report to the legislature and the governor.

7 G. In undertaking its duties, the commission may retain independent experts  
8 who may:

9 (1) Request files and records from any law enforcement official, but all such  
10 information shall be kept strictly confidential and reported on only in an aggregate  
11 or anonymous manner.

12 (2) Conduct confidential interviews with law enforcement officials, medical  
13 providers, sexual assault counselors, and others with direct knowledge of the sexual  
14 assault response process.

15 (3) Within the bounds of confidentiality, provide advice and  
16 recommendations to the commission.

---

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

---

HB 744 Original

2020 Regular Session

Moore

**Abstract:** Provides for the Louisiana Sexual Assault Survivors' Bill of Rights.

Proposed law provides for the La. Sexual Assault Survivors' Bill of Rights.

Proposed law provides that the rights provided to survivors pursuant to proposed law attach whenever a survivor is subject to a medical evidentiary or physical examination or an interview by a law enforcement officer, prosecutor, or defense attorney, whichever is earlier. Further provides that the rights are retained regardless of whether the survivor agrees to participate in the criminal justice system or in family court and regardless of whether the survivor consents to a medical evidentiary or physical examination to collect sexual assault forensic evidence.

Proposed law provides for certain rights of a sexual assault survivor including:

(1) The right to consult with a sexual assault counselor, and to have a support person of the survivor's choosing present, during any medical evidentiary or physical

- examination and during any interview by a law enforcement officer, prosecutor, or defense attorney.
- (2) The right to be interviewed by a law enforcement officer of the gender of the survivor's choosing.
  - (3) The right to have counsel present during all stages of any medical examination, interview, investigation, or other interaction with representatives from the legal or criminal justice systems within the state.
  - (4) The right to prompt analysis of sexual assault forensic evidence.
  - (5) The right to be informed in a secure and confidential message, upon the survivor's request, of the results of the analysis of the survivor's sexual assault forensic evidence.
  - (6) In either a civil or criminal case relating to the sexual assault, the right to be reasonably protected from the defendant and persons acting on behalf of the defendant.
  - (7) The right to be free from intimidation, harassment, and abuse.
  - (8) The right to be treated with fairness and respect for the survivor's privacy and dignity.
  - (9) The right to be heard through a survivor impact statement and to provide a sentencing recommendation.

Proposed law provides that communications between a survivor and a sexual assault counselor are confidential and privileged, including information disclosed in the presence of any third persons during a medical evidentiary or physical examination or during any interview by a law enforcement officer, prosecutor, or defense attorney. Further provides that the survivor's communications with a sexual assault counselor, or waiver of the right to a sexual assault counselor, shall not be admissible into evidence for any purpose except with the consent of the survivor.

Proposed law provides that no costs incurred by a medical provider for the medical evidentiary examination portion of the examination of a survivor shall be charged directly or indirectly to the survivor.

Proposed law requires a medical provider to provide a survivor with certain information before commencing a medical evidentiary or physical examination of a survivor, and requires a law enforcement officer, prosecutor, or defense attorney to provide a survivor with certain information before commencing an interview of a survivor.

Proposed law requires a medical provider to, within 24 hours after collecting any sexual assault forensic evidence, to notify the law enforcement agency having jurisdiction over the alleged assault.

Upon receipt of the notification, proposed law requires the law enforcement agency to submit the sexual assault forensic evidence to the crime laboratory within seven days after receiving that notice and assign a criminal complaint number to that evidence within five days after receiving that notice. Further requires the law enforcement agency to notify the survivor of the name, address, and telephone number of the crime laboratory.

Proposed law requires a crime laboratory that receives sexual assault forensic evidence on or after Aug. 1, 2020, to analyze that evidence and upload any available DNA profiles into CODIS within 90 days of receipt of that evidence, unless the survivor has requested in

writing for the crime laboratory to defer analysis of that evidence. Further requires the crime laboratory to retain all sexual assault forensic evidence until the time limitation for the institution of prosecution has elapsed or until the survivor reaches 48 years of age if the survivor was under the age of 17 years when the assault occurred.

Proposed law prohibits sexual assault forensic evidence from being used to prosecute a survivor for any misdemeanor crimes or any crime defined under the Uniform Controlled Dangerous Substances Law or as a basis to search for further evidence of any unrelated misdemeanor crimes or any crime under the Uniform Controlled Dangerous Substances Law, that may have been committed by the survivor.

Proposed law requires the La. Commission on Law Enforcement and Administration of Criminal Justice to develop a document to be provided to a survivor that explains the rights of survivors in clear language that is comprehensible to a person proficient in English at the fifth grade level, accessible to persons with visual disabilities, and available in all major languages of the state.

Proposed law requires a law enforcement officer, upon written request by a survivor, to furnish, within 10 days of receiving such request, a free, complete, and unaltered copy of all law enforcement reports concerning the sexual assault, regardless of whether the report has been closed by the law enforcement agency. Further requires a prosecutor, upon written request by a survivor, to provide certain information to the survivor about the case against the defendant.

Proposed law provides that each person, corporation, agency, officer, or employee who has a responsibility or responsibilities to survivors pursuant to proposed law or other applicable law shall make reasonable efforts to become informed about these responsibilities and to ensure that survivors and witnesses receive such information and services to which they may be entitled under applicable law. Further provides that any failure to make such efforts, or any violation of the enumerated rights or provisions shall be considered a tortious act causing injury to person or property within the state.

Proposed law authorizes the attorney general to take certain action on behalf of the people of La. to enjoin certain acts or practices, including through mandatory injunction, and to obtain restitution for any survivors affected directly or indirectly from any such act or omission.

Proposed law requires the La. State Police Crime Laboratory in consultation with the La. Commission on Law Enforcement and Administration of Criminal Justice to develop, by Aug. 1, 2021, a system by which a sexual assault survivor may track by telephone or internet, the location and status of the survivor's sexual assault forensic evidence kit.

Present law requires the reporting of certain sexually oriented criminal offense data by criminal justice agencies.

Proposed law retains present law and requires the La. Commission on Law Enforcement and Administration of Criminal Justice to make such information publicly available on the commission's website.

Present law provides for the La. Sexual Assault Oversight Commission and provides for certain duties of the commission including to develop recommendations for a standardized sexual assault collection kit and protocols for forensic medical examinations of victims of sexually oriented criminal offenses.

Proposed law retains present law and addition duties of the La. Sexual Assault Oversight Commission including but not limited to the following:



- (1) To study nationally recognized best practices and make recommendations regarding:
  - (a) The development and implementation of an effective mechanism for submitting, tracking, and investigating complaints regarding the handling of, or response to, a sexual assault report or investigation by any agency or organization involved in the response.
  - (b) Whether a need exists for additional sexual assault counselors for victims of sexual assault, and if such a need does exist, the commission shall develop criteria to certify sexual assault counselors and create a plan for how the state can provide additional sexual assault counselors to meet the needs identified.
- (2) To collect data regarding sexual assault reporting, arrest, prosecution rates, access to sexual assault victims services, and any other data important for its deliberations and recommendations.
- (3) To collect feedback from stakeholders, practitioners, and leadership throughout the state and local law enforcement, victim services, forensic science practitioners, and health care communities to inform development of future best practices or clinical guidelines regarding the care and treatment of survivors.
- (4) To report to the legislature and the governor, no later than Jan. 1, 2022, the result of the assessments, developments, and recommendations completed pursuant to proposed law.

Proposed law defines "crime laboratory", "law enforcement officer", "medical provider", "sexual assault counselor", "sexual assault forensic evidence", and "sexual assault survivor" for purposes of proposed law.

(Adds R.S. 46:2191 - 2199.4 and R.S. 15:556(C) - (G))