

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**

**A BILL ACT 612 OF 1991**  
**SENATE BILL 449**

4 **By: Senators Chaffin, Wilson, Dowd, Bradford, Gordon, Hoofman, Harriman, Fitch, Bearden,**  
5 **Hopkins, Edwards, Ross, Lewellen and Everett**

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**For An Act To Be Entitled**

9 "AN ACT TO AMEND SECTIONS OF THE ARKANSAS CODE OF 1987  
10 ANNOTATED PERTAINING TO MEDICAL TREATMENT OF SEXUAL  
11 ASSAULT VICTIMS; TO RESTRICT PATIENT TRANSFERS; TO PROVIDE  
12 PENALTIES; AND FOR OTHER PURPOSES."

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14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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16 SECTION 1. Ark. Code Ann. §12-12-401 is hereby amended to read as  
17 follows:

18 "12-12-401. Definitions.

19 As used in this subchapter, unless the context otherwise requires:

20 (1) 'Victim' means any person who has been a victim of any sexual  
21 assault or incest as defined by §§5-14-101 - 5-14-112, 5-14-122, and 5-26-202;

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23 (2) 'Appropriate emergency medical-legal examinations' means health  
24 care delivered to out-patients with emphasis on the collection of evidence for  
25 the purpose of prosecution.

26 (A) It shall include, but not be limited to:

27 (i) Appropriate stains and cultures to determine the  
28 presence or absence of venereal disease; and

29 (ii) All components contained in an evidence collection kit  
30 for sexual assault examination deemed appropriate by the Serology Division of  
31 the State Crime Laboratory.

32 (B) 'Appropriate emergency medical-legal examinations' shall not  
33 include the treatment of emotional trauma or ambulance services.

34 (3) 'Medical facility' means any health care provider that is  
35 currently licensed by the Arkansas Department of Health and providing  
36 emergency services."

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2 SECTION 2. Ark. Code Ann. §12-12-402 is hereby amended to read as  
3 follows:

4 "12-12-402. Procedures governing medical treatment.

5 (a) All medical facilities in Arkansas shall adhere to the procedures  
6 set forth below in the event that a person presents himself or is presented at  
7 the medical facility for treatment as a victim of rape, attempted rape, any  
8 other type of sexual assault, or incest.

9 (b) (1) (A) Any adult victim presented for medical treatment shall make  
10 the decision of whether or not the incident will be reported to a law  
11 enforcement agency.

12 (B) No medical facility may require an adult victim to  
13 report the incident in order to receive medical treatment.

14 (C) The victim shall be examined and treated as a regular  
15 emergency room patient, and any injuries requiring medical attention will be  
16 treated in the standard manner.

17 (D) Evidence will be collected only with the permission of  
18 the victim. However, permission shall not be required in instances where the  
19 victim is unconscious, mentally incapable of consent, or intoxicated.

20 (2) (A) Should an adult victim wish to report the incident to a  
21 law enforcement agency, the appropriate law enforcement agencies shall be  
22 contacted by the medical facility.

23 (B) The victim shall be examined and treated as a regular  
24 emergency room patient, any injuries requiring medical attention will be  
25 treated in the standard manner; a medical-legal examination shall be conducted  
26 and specimens shall be collected for evidence.

27 (C) The evidence shall be turned over to the law  
28 enforcement officers when they arrive to assume responsibility for  
29 investigation of the incident.

30 (c) (1) The reporting medical facility should follow the procedures set  
31 forth in §12-12-507 regarding the reporting of injuries to victims under  
32 eighteen (18) years of age.

33 (2) (A) Any victim under eighteen (18) years of age shall be  
34 examined and treated as a regular emergency room patient, and any injuries  
35 requiring medical attention will be treated in the standard manner.

1 (B) A medical-legal examination shall be performed, and  
2 specimens shall be collected for evidence.

3 (C) The evidence shall be turned over to the law  
4 enforcement officers when they arrive to assume responsibility for  
5 investigation of the incident.

6 (d) Reimbursement for the medical-legal examinations shall be available  
7 to the medical facilities.

8 (e) The victim shall not be transferred to another medical facility  
9 unless:

10 (1) the victim requests to be transferred; or

11 (2) a physician, or other qualified medical personnel when a  
12 physician is not available, has signed a certification that the benefits to  
13 the patient's health would outweigh the risks to the patient's health as a  
14 result of the transfer; and

15 (3) the transferring hospital provides all necessary medical  
16 records and insures that appropriate transportation is available."

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18 SECTION 3. Title 12, Chapter 12, Subchapter 4 is hereby amended by  
19 adding a new section to read as follows:

20 "12-12-405. Licensure suspension or revocation.

21 Any medical facility which does not comply with the provisions of this  
22 subchapter is subject to license suspension or revocation by the Arkansas  
23 Department of Health pursuant to the provisions of Ark. Code Ann. §20-9-215."

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25 SECTION 4. Ark. Code Ann. §20-9-303 is hereby amended to read as  
26 follows:

27 "20-9-303. Medical treatment of sexual assault victims.

28 (a) Any health care provider that is currently licensed by the Arkansas  
29 Department of Health and is providing emergency services shall adhere to the  
30 following procedures in the event that a person presents himself or is  
31 presented at the medical facility for treatment as a victim of rape, attempted  
32 rape, or any other type of sexual assault, or incest:

33 (1) ADULT VICTIMS. (A) Any adult victim presented for medical  
34 treatment shall make the decision of whether or not the incident will be  
35 reported to a law enforcement agency.

1 (i) No medical facility may require an adult victim  
2 to report the incident in order to receive medical treatment.

3 (ii) The victim shall be examined and treated as a  
4 regular emergency room patient. Any injuries requiring medical attention will  
5 be treated in the standard manner.

6 (iii) Evidence will be collected only with the  
7 permission of the victim. However, the permission shall not be required in  
8 instances where the victim is unconscious, mentally incapable of consent, or  
9 intoxicated.

10 (B) Should an adult victim wish to report the incident to a  
11 law enforcement agency, the appropriate law enforcement agencies shall be  
12 contacted by the medical facility.

13 (i) The victim shall be examined and treated as a  
14 regular emergency room patient; any injuries requiring medical attention will  
15 be treated in the standard manner; a medical/legal examination shall be  
16 conducted, and specimens shall be collected for evidence.

17 (ii) The evidence shall be turned over to the law  
18 enforcement officers when they arrive to assume responsibility for  
19 investigation of the incident.

20 (2) MINOR VICTIMS. (A) The reporting medical facility should  
21 follow the procedures set forth in §12-12-502 and 12-12-507 regarding the  
22 reporting of injuries to victims under eighteen (18) years of age.

23 (B) Any victim under eighteen (18) years of age shall be  
24 examined and treated as a regular emergency room patient; any injuries  
25 requiring medical attention will be treated in the standard manner.

26 (i) A medical/legal examination shall be performed,  
27 and specimens shall be collected for evidence.

28 (ii) The evidence shall be turned over to the law  
29 enforcement officers when they arrive to assume responsibility for  
30 investigation of the incident.

31 (b) Reimbursement for the medical/legal examinations shall be available  
32 to the medical facilities.

33 (c) The victim shall not be transferred to another medical facility  
34 unless:

35 (1) the victim requests to be transferred; or

