

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

A Bill

SENATE BILL 449

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

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."

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

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;

22
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

1 emergency services."

2

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

5 "12-12-402. Procedures governing medical treatment.

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

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

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

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

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

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

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

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

34 (2) (A) Any victim under eighteen (18) years of age shall be
35 examined and treated as a regular emergency room patient, and any injuries

1 requiring medical attention will be treated in the standard manner.

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

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

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

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

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

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

16 (3) the transferring hospital provides all necessary medical
17 records and insures that appropriate transportation is available."
18

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

21 "12-12-405. Licensure suspension or revocation.

22 Any medical facility which does not comply with the provisions of this
23 subchapter is subject to license suspension or revocation by the Arkansas
24 Department of Health pursuant to the provisions of Ark. Code Ann. §20-9-215."
25

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

28 "20-9-303. Medical treatment of sexual assault victims.

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

34 (1) ADULT VICTIMS. (A) Any adult victim presented for medical
35 treatment shall make the decision of whether or not the incident will be

1 reported to a law enforcement agency.

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (1) the victim requests to be transferred; or
- 2 (2) a physician, or other qualified medical personnel when a
- 3 physician is not available, has signed a certification that the benefits to
- 4 the patient's health would outweigh the risks to the patient's health as a
- 5 result of the transfer; and
- 6 (3) the transferring hospital provides all necessary medical
- 7 records and insures that appropriate transportation is available.
- 8 (d) Non-compliance with this section is grounds for licensure
- 9 revocation or suspension under §§12-12-405 and 20-9-215."

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SECTION 5. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 7. All laws and parts of laws in conflict with this act are hereby repealed.

/s/Chaffin, et al