

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: H3/2/01 H3/7/01

A Bill

HOUSE BILL 1587

5 By: Representatives Dees, Salmon, Lendall
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For An Act To Be Entitled

9 AN ACT TO CLARIFY PROCEDURES FOR CONDUCTING
10 MEDICAL-LEGAL EXAMINATIONS OF SEXUAL ASSAULT
11 VICTIMS; AND FOR OTHER PURPOSES.
12

Subtitle

14 TO CLARIFY PROCEDURES FOR CONDUCTING
15 MEDICAL-LEGAL EXAMINATIONS OF SEXUAL
16 ASSAULT VICTIMS.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code 12-12-401 is amended to read as follows:
22 12-12-401. Definitions.

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

24 (1) "Victim" means any person who has been a victim of any alleged
25 sexual assault or incest as defined by §§ 5-14-101-5-14-112, 5-14-120 - 5-14-
26 122, and 5-26-202; and

27 (2)(A) "Appropriate emergency medical-legal examinations" means health
28 care delivered ~~to out-patients~~ with emphasis on the collection of evidence
29 for the purpose of prosecution.

30 ~~(A)(B)~~ It shall include, but not be limited to:

31 ~~(i) Appropriate stains and cultures to determine the~~
32 ~~presence or absence of venereal disease; and~~

33 ~~(ii) All~~ the appropriate components contained in an
34 evidence collection kit for sexual assault examination ~~deemed appropriate~~
35 distributed by the ~~Serology Division~~ Forensic Biology Section of the State
36 Crime Laboratory.

1 ~~(B) "Appropriate emergency medical-legal examinations" shall not~~
2 ~~include the treatment of emotional trauma or ambulance services; and~~

3 (3) "Medical facility" means any health care provider that is
4 currently licensed by the Department of Health and providing emergency
5 services; and

6 (4) "Licensed health care provider" means a person licensed in a
7 health care field who conducts medical-legal examinations.

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9 SECTION 2. Arkansas Code 12-12-402 is amended to read as follows:

10 12-12-402. Procedures governing medical treatment.

11 (a) All medical facilities in Arkansas or licensed health care
12 providers conducting medical-legal examinations shall adhere to the
13 procedures set forth below in the event that a person presents himself or is
14 presented ~~at the medical facility~~ for treatment as a victim of rape,
15 attempted rape, any other type of sexual assault, or incest.

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

19 (B) No medical facility or licensed health care provider
20 may require an adult victim to report the incident in order to receive
21 medical treatment.

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

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

28 (2)(A) Should an adult victim wish to report the incident to a
29 law enforcement agency, the appropriate law enforcement agencies shall be
30 contacted by the medical facility or licensed health care provider or his
31 designee.

32 (B) The victim shall be given a medical screening
33 examination by a qualified medical person as provided under the Emergency
34 Medical Treatment and Active Labor Act, as in effect on January 1, 2001, if
35 the victim arrives at the emergency department of a hospital and the person
36 shall be examined and treated as a regular emergency room patient, and any

1 injuries requiring medical attention will be treated in the standard manner;
 2 a medical -legal examination shall be conducted and specimens shall be
 3 collected for evidence.

4 ~~(C)~~ If a law enforcement agency has been contacted and
 5 with the permission of the victim, the evidence shall be turned over to the
 6 law enforcement officers when they arrive to assume responsibility for
 7 investigation of the incident.

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

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

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

16 (3) The reporting medical facility or licensed health care
 17 provider shall follow the procedures set forth in §12-12-507 regarding the
 18 reporting of injuries to victims under eighteen (18) years of age.

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

22 (d) Reimbursement for the medical -legal examinations shall be
 23 available to the medical facilities or licensed health care provider pursuant
 24 to the procedures set forth in § 12-12-403.

25 (e) The victim shall not be transferred to another medical facility
 26 unless:

27 (1)(A) The victim or the parents or guardian of a victim under
 28 the age of eighteen (18) requests to be transferred; or

29 (B) A physician, or other qualified medical personnel when
 30 a physician is not available, has signed a certification that the benefits to
 31 the patient's health would outweigh the risks to the patient's health as a
 32 result of the transfer; and

33 (2) The transferring ~~hospital~~ medical facility or licensed
 34 health care provider provides all necessary medical records and insures that
 35 appropriate transportation is available.

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1 SECTION 3. Arkansas Code 12-12-403 is amended to read as follows:
 2 12-12-403. ~~University of Arkansas Medical Sciences Campus~~
 3 Examinations and treatment-Payment.

4 (a) ~~The University of Arkansas for Medical Sciences Campus~~ All
 5 licensed emergency departments shall provide prompt, appropriate emergency
 6 medical -legal examinations for sexual assault victims.

7 (b) All victims ~~seeking treatment~~ shall be exempted from the payment
 8 of expenses incurred as a result of ~~the treatment~~ receiving a medical -legal
 9 examination provided the following conditions are met:

10 (1) The assault must be reported to a law enforcement agency;
 11 and

12 (2) The victim must ~~seek treatment~~ receive the medical -legal
 13 examination within ~~forty eight (48)~~ seventy-two (72) hours of the attack.

14 (c) However, ~~in the event the victim is a minor, the forty eight (48)~~
 15 seventy-two (72) hour time limitation may be waived, if the victim is a minor
 16 or if the Arkansas Crime Victims Reparations Board finds that good cause
 17 exists for the failure to provide the exam within the required time if, in
 18 the opinion of the examining physician, evidence of sexual activity could be
 19 found.

20 (d)(1) A medical facility or licensed health care provider that
 21 performs a medical -legal examination shall submit a sexual assault
 22 reimbursement form, an itemized statement which meets the requirements of 45
 23 C.F.R. 164.512(d), as it existed on January 2, 2001, directly to the Arkansas
 24 Crime Victims Reparations Board for payment.

25 (2) The medical facility or licensed health care provider shall
 26 not submit any remaining balance after reimbursement by the Arkansas Crime
 27 Victims Reparations Board to the victim.

28 (3) Acceptance of payment of the expenses of the medical -legal
 29 examination by the Arkansas Crime Victims Reparations Board shall be
 30 considered payment in full and bars any legal action for collection.

31
 32 SECTION 4. Arkansas Code 12-12-404(a), concerning reimbursement of
 33 licensed health care ~~practitioners~~ providers, is amended to read as follows:

34 (a) The Crime Victims Reparations Board may reimburse any medical
 35 facility or licensed health care provider that provides the services outlined
 36 in this subchapter for the reasonable cost for such services.

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SECTION 5. Arkansas Code 12-12-405 is amended to read as follows:

12-12-405. License suspension or revocation.

~~Any medical facility which does not comply~~ Noncompliance with the provisions of this subchapter is ~~subject to license~~ grounds for licensure suspension or revocation ~~by the Department of Health pursuant to the~~ provisions of § 20-9-215 or any other provisions governing the licensure of medical facilities or health care providers.

SECTION 6. Arkansas Code 20-9-303 is repealed.

~~20-9-303. Medical treatment of sexual assault victims.~~

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

~~(1) Adult Victims. (A) Any adult victim presented for medical treatment shall make the decision of whether or not the incident will be reported to a law enforcement agency.—~~

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

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

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

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

~~(i) The victim shall be examined and treated as a regular emergency room patient; any injuries requiring medical attention will be treated in the standard manner; a medical/legal examination, as defined in § 12-12-401, shall be conducted, and specimens shall be collected for evidence.—~~

1 ~~(ii) The evidence shall be turned over to the law~~
2 ~~enforcement officers when they arrive to assume responsibility for~~
3 ~~investigation of the incident.~~

4 ~~(2) Minor Victims. (A) The reporting medical facility should~~
5 ~~follow the procedures set forth in §§ 12-12-502 and 12-12-507 regarding the~~
6 ~~reporting of injuries to victims under eighteen (18) years of age.~~

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

10 ~~(i) A medical/legal examination, as defined in § 12-~~
11 ~~12-401, shall be performed, and specimens shall be collected for evidence.~~

12 ~~(ii) The evidence shall be turned over to the law~~
13 ~~enforcement officers when they arrive to assume responsibility for~~
14 ~~investigation of the incident.~~

15 ~~(b) Reimbursement for the medical/legal examinations, as defined in §~~
16 ~~12-12-401, shall be available to the medical facilities.~~

17 ~~(c) The victim shall not be transferred to another medical facility~~
18 ~~unless:~~

19 ~~(1) The victim requests to be transferred; or~~

20 ~~(2) A physician, or other qualified medical personnel when a~~
21 ~~physician is not available, has signed a certification that the benefits to~~
22 ~~the patient's health would outweigh the risks to the patient's health as a~~
23 ~~result of the transfer; and~~

24 ~~(3) The transferring hospital provides all necessary medical~~
25 ~~records and insures that appropriate transportation is available.~~

26 ~~(d) Noncompliance with this section is grounds for licensure~~
27 ~~revocation or suspension under §§ 12-12-405 and 20-9-215.~~

28
29 /s/ Dees
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