

By: Representatives McLean, Hobgood-Wilkes,  
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To: Public Health and Human  
Services

## HOUSE BILL NO. 928

1 AN ACT TO REQUIRE LICENSED HOSPITALS THAT OPERATE AN  
2 EMERGENCY DEPARTMENT TO HAVE AT LEAST ONE PHYSICIAN, ADVANCED  
3 PRACTICE REGISTERED NURSE, PHYSICIAN ASSISTANT OR REGISTERED NURSE  
4 ON DUTY DURING EACH SHIFT THROUGHOUT THE DAY WHO IS TRAINED AND  
5 ABLE TO CONDUCT FORENSIC EXAMINATIONS OF VICTIMS OF SEXUAL ASSAULT  
6 AND PREPARE SEXUAL ASSAULT EVIDENCE COLLECTION KITS FOR THOSE  
7 VICTIMS; TO PROHIBIT LICENSED HOSPITALS FROM TURNING AWAY OR  
8 REFUSING TO EXAMINE OR TREAT VICTIMS OF SEXUAL ASSAULT; TO REQUIRE  
9 LICENSED HOSPITALS TO MAINTAIN A SUFFICIENT SUPPLY OF SEXUAL  
10 ASSAULT EVIDENCE COLLECTION KITS FOR USE WHEN CONDUCTING FORENSIC  
11 EXAMINATIONS OF VICTIMS OF SEXUAL ASSAULT; TO AUTHORIZE LICENSED  
12 HOSPITALS TO CONTRACT WITH FORENSIC NURSES TO CONDUCT FORENSIC  
13 EXAMINATIONS OF VICTIMS OF SEXUAL ASSAULT AND PREPARE SEXUAL  
14 ASSAULT EVIDENCE COLLECTION KITS FOR THE HOSPITAL; TO AMEND  
15 SECTION 99-51-1, MISSISSIPPI CODE OF 1972, TO REQUIRE MEDICAL  
16 FACILITIES AND LAW ENFORCEMENT AGENCIES TO KEEP SEXUAL ASSAULT  
17 EVIDENCE COLLECTION KITS IN A SEPARATE REFRIGERATION UNIT THAT IS  
18 USED ONLY FOR THE STORAGE OF THOSE KITS; TO BRING FORWARD SECTION  
19 99-37-25, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR PAYMENT FOR  
20 FORENSIC EXAMINATIONS OF VICTIMS OF SEXUAL ASSAULT AND PREPARATION  
21 OF SEXUAL ASSAULT EVIDENCE COLLECTION KITS, FOR THE PURPOSE OF  
22 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

24 **SECTION 1.** (1) As used in this section, the terms "sexual  
25 assault" and "sexual assault evidence collection kit" have the  
26 meanings as defined in Section 99-51-1.

27 (2) Each licensed hospital in the state that operates an  
28 emergency department shall be required to have at least one (1)



physician, advanced practice registered nurse, physician assistant or registered nurse on duty during each shift throughout the day who is trained and able to conduct forensic examinations of victims of sexual assault who present themselves or are brought to the emergency department for examination or treatment and prepare sexual assault evidence collection kits for those victims.

(3) No licensed hospital in the state shall turn away or refuse to treat or examine victims of sexual assault who present themselves or are brought to the hospital for examination or treatment.

(4) Each licensed hospital in the state shall maintain a sufficient supply of sexual assault evidence collection kits for use when conducting forensic examinations of victims of sexual assault.

(5) Any licensed hospital in the state is authorized to contract with forensic nurses to conduct forensic examinations of victims of sexual assault and prepare sexual assault evidence collection kits for the hospital.

**SECTION 2.** Section 99-51-1, Mississippi Code of 1972, is amended as follows:

99-51-1. (1) The following words shall have the meanings described in this chapter:

(a) "Law enforcement" means the law enforcement agency with the primary responsibility for investigating an alleged sexual assault.



54 (b) "Medical facility" means any state, local, tribal,  
55 community, free, nonprofit, academic, or private doctor's office,  
56 hospital, or medical clinic equipped to perform forensic medical  
57 examinations and prepare sexual assault evidence kits.

58 (c) "Reported kit" means a sexual assault evidence kit  
59 in which the survivor has consented to participate in the criminal  
60 justice process through reporting the crime to law enforcement.

61 (d) "Sexual assault" means rape as defined in Section  
62 97-3-71, sexual battery as defined in Section 97-3-95 and sexual  
63 penetration as defined in Section 97-3-97.

64 (e) "Sexual assault evidence collection kit" means a  
65 sexual assault or rape kit developed by the Mississippi chapter of  
66 the International Association of Forensic Nurses (IAFN) and  
67 approved by the Sexual Assault Evidence Accountability Task Force.

68 (f) "Sexual Assault Nurse Examiner" means a registered  
69 nurse or advanced practice nurse, with a minimum of one (1) year  
70 of experience in areas of practice that require advanced physical  
71 assessment skills, such as emergency, critical care and maternal  
72 child health, who has completed sexual assault nurse examiner  
73 (SANE) training consistent with IAFN SANE Education Guidelines  
74 that consists of both classroom and clinical components.

75 (g) "Unreported kit" means a sexual assault evidence  
76 kit in which the survivor consented to the evidence collection,  
77 but has not consented to participate in the criminal justice



78 process by reporting the crime to law enforcement - meaning they  
79 are not seeking to have their kit tested.

80 (2) Sexual assault evidence collection kits shall be  
81 processed in the following manner:

82 (a) Any medical facility that conducts a medical  
83 forensic examination and/or prepares a sexual assault evidence  
84 collection kit shall immediately, but no longer than four (4)  
85 hours after the finalization of examination, contact the  
86 appropriate law enforcement agency to collect the kit. Until the  
87 kit is retrieved by law enforcement, the medical facility shall  
88 store the kit in a refrigerated manner in conformity with the  
89 Scientific Working Group for DNA Analysis Method. The medical  
90 facility shall keep sexual assault evidence collection kits in a  
91 separate refrigeration unit that is used only for the storage of  
92 those kits.

93 (b) When a law enforcement agency is contacted to  
94 collect a sexual assault evidence kit, the law enforcement agency  
95 shall take possession of the kit from the medical facility within  
96 twenty-four (24) hours. Upon taking physical possession of the  
97 sexual assault evidence collection kit, the law enforcement agency  
98 shall transport the kit in a manner that preserves the evidence in  
99 the kit. The agency shall: (i) store the kit in a secure,  
100 refrigerated location in the agency no more than two (2) hours  
101 after taking physical possession of the kit; or (ii) transport the  
102 kit directly to the Mississippi Forensics Laboratory. The agency



103 shall keep sexual assault evidence collection kits in a separate  
104 refrigeration unit that is used only for the storage of those  
105 kits.

106 (c) All kits must be delivered to the Mississippi  
107 Forensics Laboratory no later than seven (7) calendar days from  
108 the date the law enforcement agency took physical possession of  
109 the kit.

110 (d) A law enforcement agency that receives a sexual  
111 assault collection kit from a healthcare provider that relates to  
112 a report of a sexual assault that occurred outside the  
113 jurisdiction of that law enforcement agency shall have the sexual  
114 assault collection kit delivered to the law enforcement agency  
115 having jurisdiction within ten (10) days of learning that the  
116 other law enforcement agency has jurisdiction.

117 (3) (a) The Mississippi Forensics Laboratory shall test  
118 sexual assault evidence collection kits within sixty (60) days of  
119 receipt from a law enforcement agency. Forensic DNA testing shall  
120 be performed according to laboratory methods that determine the  
121 presence of DNA suitable for STR analysis. Any autosomal, CODIS  
122 eligible DNA profile shall be entered into the Combined DNA Index  
123 System (CODIS) or equivalency thereof and state or local DNA  
124 database. If the Mississippi Forensics Laboratory is unable to  
125 determine DNA present, other than the victim's DNA, in the sexual  
126 assault evidence collection kit, the laboratory should evaluate



the case, when suitable, to determine if any other DNA results could be used for investigative purposes.

(b) When forensic laboratory testing does result in a DNA profile foreign to the victim, the Mississippi Forensics Laboratory should enter the foreign DNA profile into the Combined DNA Index System (CODIS) or equivalency thereof and any other required state or local DNA databases. The average completion rate for this analysis and classification should not exceed ninety (90) days.

(c) The Mississippi Forensics Laboratory is authorized to contract with other laboratories to ensure that each kit is tested and the information from such kit is entered into CODIS, when applicable, within the time frames required by this subsection.

**SECTION 3.** Section 99-37-25, Mississippi Code of 1972, is brought forward as follows:

99-37-25. (1) (a) When a person is brought into a doctor's office, a hospital or a medical clinic by a law enforcement agency as the victim of an alleged rape or sexual assault having occurred in this state, or comes into a doctor's office, a hospital or a medical clinic alleging rape or sexual assault having occurred in this state, the bill for the medical forensic examination and the preparation of the sexual assault evidence collection kit will be sent to the Division of Victim Compensation, Office of the Attorney General. The Division of Victim Compensation shall pay



152 for the medical examination conducted for the procurement of  
153 evidence to aid in the investigation and prosecution of the  
154 alleged offense. Such payment shall be limited to the customary  
155 and usual hospital and physician charges for such services in the  
156 area. Such payment shall be made by the Division of Victim  
157 Compensation directly to the health care provider. No bill for  
158 the examination will be submitted to the victim, nor shall the  
159 medical facility hold the victim responsible for payment. The  
160 victim may be billed for any further medical services not required  
161 for the investigation and prosecution of the alleged offense. In  
162 cases where the damage caused by the alleged sexual assault  
163 requires medical treatment or diagnosis in addition to the  
164 examination, the patient will be given information about the  
165 availability of victim compensation and the procedure for applying  
166 for such compensation.

167 (b) Upon application submitted by the district  
168 attorney, provided the proper warrant or court order has been  
169 issued, the county in which an offense of sexual assault or of  
170 felonious abuse or battery of a child as described in Section  
171 97-5-39, touching or handling a child for lustful purposes as  
172 described in Section 97-5-23, exploitation of children as  
173 described in Section 97-5-33 or sexual battery as described in  
174 Section 97-3-95, or statutory rape as defined in Section 97-3-65,  
175 or an attempt to commit such offense has occurred shall pay for a  
176 medical forensic examination of the person arrested, charged or



convicted of such offense to determine if the person so arrested, charged or convicted has any sexually transmitted disease and for the collection of evidence. Such payment shall be made by the county directly to the health care provider or other service performing the collection of evidence and tests. At the victim's request, a test for human immunodeficiency virus (HIV) shall be administered to the defendant/accused not later than forty-eight (48) hours after the date on which the information or indictment is presented, and the defendant/accused shall be subjected to follow-up testing for HIV upon a determination that such follow-up testing is medically necessary and reasonable. The results of any such test shall be confidential but shall be made available to the victim or, if the victim is a child, to the guardian of the victim. After an indictment, if the case is dismissed, the defendant is found not guilty or the case is not prosecuted within three (3) years of the indictment, all records of tests shall be returned to the accused or destroyed. Upon a showing of good cause, the court may retain such records and allow a case to remain open after the expiration of the three-year limitation provided herein.

(2) Any defendant who is convicted of, or pleads guilty or nolo contendere to, any offense or an attempt to commit any such offense specified in subsection (1)(b) shall be ordered by the court to make restitution to the Division of Victim Compensation in an amount equal to the compensation paid by the Division of





Victim Compensation to the victim or medical provider for the medical forensic examination and to the county for tests for sexually transmitted diseases. Such restitution shall be in addition to any restitution which the court orders the defendant to pay the victim under the provisions of Chapter 37 of Title 99, (Sections 99-37-1 through 99-37-21), Mississippi Code of 1972.

(3) The Division of Victim Compensation is hereby authorized, in its discretion, to make application for and comply with such requirements as may be necessary to qualify for any federal funds as may be available as a result of services rendered to crime victims under the provisions of this section.

**SECTION 4.** This act shall take effect and be in force from and after July 1, 2025.

