

By: Representatives McLean, Hobgood-Wilkes,
McKnight, Shanks, Waldo, Wallace, Summers

To: Public Health and Human
Services

HOUSE BILL NO. 928
(As Passed the House)

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 ABLE TO
5 CONDUCT FORENSIC EXAMINATIONS OF VICTIMS OF SEXUAL ASSAULT AND
6 PREPARE SEXUAL ASSAULT EVIDENCE COLLECTION KITS FOR THOSE VICTIMS;
7 TO PROHIBIT LICENSED HOSPITALS FROM TURNING AWAY OR REFUSING TO
8 EXAMINE OR TREAT VICTIMS OF SEXUAL ASSAULT; TO REQUIRE LICENSED
9 HOSPITALS TO MAINTAIN A SUFFICIENT SUPPLY OF SEXUAL ASSAULT
10 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 LABORATORY RESULTS OR A SIMILAR UNIT
19 USED TO STORE SENSITIVE HOSPITAL MATERIALS RELATED TO THE MEDICAL
20 TREATMENT OF PATIENTS; TO BRING FORWARD SECTION 99-37-25,
21 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR PAYMENT FOR FORENSIC
22 EXAMINATIONS OF VICTIMS OF SEXUAL ASSAULT AND PREPARATION OF
23 SEXUAL ASSAULT EVIDENCE COLLECTION KITS, FOR THE PURPOSE OF
24 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

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



(2) Each licensed hospital in the state that operates an 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 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:



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

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

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

63 (d) "Sexual assault" means rape as defined in Section
64 97-3-71, sexual battery as defined in Section 97-3-95 and sexual
65 penetration as defined in Section 97-3-97.

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

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



77 (g) "Unreported kit" means a sexual assault evidence
78 kit in which the survivor consented to the evidence collection,
79 but has not consented to participate in the criminal justice
80 process by reporting the crime to law enforcement - meaning they
81 are not seeking to have their kit tested.

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

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

96 (b) When a law enforcement agency is contacted to
97 collect a sexual assault evidence kit, the law enforcement agency
98 shall take possession of the kit from the medical facility within
99 twenty-four (24) hours. Upon taking physical possession of the
100 sexual assault evidence collection kit, the law enforcement agency
101 shall transport the kit in a manner that preserves the evidence in



the kit. The agency shall: (i) store the kit in a secure, refrigerated location in the agency no more than two (2) hours after taking physical possession of the kit; or (ii) transport the kit directly to the Mississippi Forensics Laboratory. The agency shall keep sexual assault evidence collection kits in a separate refrigeration unit that is used only for the storage of those kits.

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

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

(3) (a) The Mississippi Forensics Laboratory shall test sexual assault evidence collection kits within sixty (60) days of receipt from a law enforcement agency. Forensic DNA testing shall be performed according to laboratory methods that determine the presence of DNA suitable for STR analysis. Any autosomal, CODIS eligible DNA profile shall be entered into the Combined DNA Index System (CODIS) or equivalency thereof and state or local DNA



127 database. If the Mississippi Forensics Laboratory is unable to
128 determine DNA present, other than the victim's DNA, in the sexual
129 assault evidence collection kit, the laboratory should evaluate
130 the case, when suitable, to determine if any other DNA results
131 could be used for investigative purposes.

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

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

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

146 99-37-25. (1) (a) When a person is brought into a doctor's
147 office, a hospital or a medical clinic by a law enforcement agency
148 as the victim of an alleged rape or sexual assault having occurred
149 in this state, or comes into a doctor's office, a hospital or a
150 medical clinic alleging rape or sexual assault having occurred in
151 this state, the bill for the medical forensic examination and the



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

170 (b) Upon application submitted by the district
171 attorney, provided the proper warrant or court order has been
172 issued, the county in which an offense of sexual assault or of
173 felonious abuse or battery of a child as described in Section
174 97-5-39, touching or handling a child for lustful purposes as
175 described in Section 97-5-23, exploitation of children as
176 described in Section 97-5-33 or sexual battery as described in



177 Section 97-3-95, or statutory rape as defined in Section 97-3-65,
178 or an attempt to commit such offense has occurred shall pay for a
179 medical forensic examination of the person arrested, charged or
180 convicted of such offense to determine if the person so arrested,
181 charged or convicted has any sexually transmitted disease and for
182 the collection of evidence. Such payment shall be made by the
183 county directly to the health care provider or other service
184 performing the collection of evidence and tests. At the victim's
185 request, a test for human immunodeficiency virus (HIV) shall be
186 administered to the defendant/accused not later than forty-eight
187 (48) hours after the date on which the information or indictment
188 is presented, and the defendant/accused shall be subjected to
189 follow-up testing for HIV upon a determination that such follow-up
190 testing is medically necessary and reasonable. The results of any
191 such test shall be confidential but shall be made available to the
192 victim or, if the victim is a child, to the guardian of the
193 victim. After an indictment, if the case is dismissed, the
194 defendant is found not guilty or the case is not prosecuted within
195 three (3) years of the indictment, all records of tests shall be
196 returned to the accused or destroyed. Upon a showing of good
197 cause, the court may retain such records and allow a case to
198 remain open after the expiration of the three-year limitation
199 provided herein.

200 (2) Any defendant who is convicted of, or pleads guilty or
201 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.

