

1 HB137
2 208994-6
3 By Representative Brown (C)
4 RFD: Judiciary
5 First Read: 02-FEB-21
6 PFD: 01/26/2021

1
2 ENROLLED, An Act,

3 Relating to sexual assault victims; to provide
4 certain rights to victims of sexual assault; to require
5 written notification of the rights be provided to sexual
6 assault victims; and to create the Sexual Assault Task Force.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. This act shall be known and may be cited
9 as the Sexual Assault Survivors Bill of Rights.

10 Section 2. (a) A sexual assault survivor has the
11 following rights:

12 (1)a. Not to be prevented from, or charged for,
13 receiving a medical forensic examination.

14 b. For the purposes of this subdivision, a health
15 care provider may bill a health insurer for providing a
16 medical forensic examination.

17 (2) To have a sexual assault evidence collection kit
18 or its probative contents preserved by law enforcement,
19 without charge, for at least 20 years or until the survivor
20 reaches 40 years of age if the survivor was a minor when the
21 assault occurred.

22 (3) Upon request, to be informed by the
23 investigating law enforcement agency, of test results from the
24 sexual assault evidence kit, including a DNA profile match, or
25 other information collected as part of a medical forensic

1 examination, if the disclosure would not impede or compromise
2 an ongoing law enforcement investigation.

3 (4) Upon written request, to be informed of policies
4 governing the collection and preservation of a sexual assault
5 evidence collection kit.

6 (5) Upon written request, to receive written
7 notification, from the investigating law enforcement agency
8 with custody of the kit or its probative contents, of the
9 intended destruction or disposal of the kit or its probative
10 contents at least 60 days before the intended destruction or
11 disposal.

12 (6) Upon written request, to be granted further
13 preservation of the kit or its probative contents for an
14 additional 20 years.

15 (7) To be informed of the rights under this
16 subsection.

17 (b) The term sexual assault, as used in this
18 section, is defined as any nonconsensual sexual act proscribed
19 by federal, tribal, or state law, including when the victim
20 lacks capacity to consent.

21 Section 3. The Attorney General shall develop a
22 survivor notification document to be distributed by a law
23 enforcement officer or a medical provider upon initial contact
24 with a survivor of sexual assault. The notification document
25 shall be made available on the Attorney General's public

1 website. The document shall include, but is not limited to,
2 the following information:

3 (1) A clear statement that the survivor has the
4 right not to be prevented from, nor charged for, receiving a
5 sexual assault medical forensic examination.

6 (2) A clear statement that the survivor has a right
7 to have a sexual assault medical forensic examination,
8 regardless of whether the survivor reports to or cooperates
9 with law enforcement.

10 (3) The availability and contact information of a
11 sexual assault advocate.

12 (4) The availability of protective orders, policies
13 related to their enforcement, and the process to obtain
14 protection orders.

15 (5) Policies regarding the storage, preservation,
16 and disposal of sexual assault evidence collection kits.

17 (6) The process, if any, to request the preservation
18 of sexual assault evidence collection kits.

19 (7) Instructions for requesting the test results
20 upon the forensic or probative evidence of the kits from the
21 investigating law enforcement agency.

22 (8) Information about state and federal compensation
23 funds available for medical or other costs associated with the
24 case and the availability of victim compensation and
25 restitution.

1 Section 4. (a) The Attorney General shall establish
2 the Sexual Assault Task Force. The task force shall develop,
3 coordinate, and disseminate ~~best practices~~ national protocols,
4 produced by the U.S. Department of Justice, regarding the care
5 and treatment of sexual assault survivors and the preservation
6 of forensic evidence.

7 (b) The task force shall consist of the following
8 members:

9 (1) Two appointees selected by the Attorney General,
10 with at least one appointee ~~being a victim's rights advocate~~
11 selected from the Alabama Crime Victims' Compensation
12 Commission.

13 (2) Two appointees selected by the Governor.

14 (3) One appointee selected by the District Attorneys
15 Association.

16 (4) One appointee selected by the Department of
17 Forensic Sciences.

18 (5) One appointee selected by the Medical
19 Association of the State of Alabama.

20 (6) Three members of the Senate appointed by the
21 chair of the Senate Judiciary Committee.

22 (7) Three members of the House of Representatives
23 appointed by the chair of the House Judiciary Committee.

24 (8) One appointee selected by the Alabama Sheriffs
25 Association.

1 (9) One appointee selected by the Commissioner of
2 Mental Health.

3 (10) One appointee selected by the Alabama Hospital
4 Association.

5 (11) One appointee selected by the Commissioner of
6 the State Department of Human Resources.

7 (c) The appointing authorities shall coordinate
8 their appointments to assure the task force membership is
9 inclusive and reflects the racial, gender, geographic, urban,
10 rural, and economic diversity of the state.

11 (d) Task force members shall serve without
12 compensation, but may be reimbursed for actual expenses
13 associated with attending meetings by the respective
14 appointing authorities according to applicable law.

15 (e) The task force shall consult with all of the
16 following:

17 (1) Stakeholders in law enforcement, prosecution,
18 forensic laboratory, counseling, forensic examiner, medical
19 facility, and medical provider communities.

20 (2) Representatives of at least three entities with
21 demonstrated expertise in sexual assault prevention, sexual
22 assault advocacy, or representation of sexual assault victims,
23 and at least one representative shall be a sexual assault
24 victim.

1 (f) The task force shall have the following
 2 responsibilities specifically regarding the care and treatment
 3 of sexual assault survivors and preservation of evidence:

4 (1) Develop recommendations for improving the
 5 coordination of the dissemination and implementation of ~~best~~
 6 ~~practices and protocols to hospital administrators,~~
 7 ~~physicians, forensic examiners, and other medical associations~~
 8 ~~and leaders in the medical community.~~ national protocols,
 9 produced by the U.S. Department of Justice, to physicians,
 10 hospitals, forensic examiners, medical associations, and
 11 leaders in the medical community.

12 ~~(2) Encourage, where appropriate, the adoption and~~
 13 ~~implementation of best practices and protocols among hospital~~
 14 ~~administrators, physicians, forensic examiners, and other~~
 15 ~~medical associations and leaders in the medical community.~~

16 ~~(3)~~ (2) Develop recommendations to promote the
 17 coordination of the dissemination and implementation of ~~best~~
 18 ~~practices~~ national protocols, produced by the U.S. Department
 19 of Justice, to the Attorney General, the Secretary of the
 20 Alabama State Law Enforcement Agency, the Director of the
 21 Department of Forensic Sciences, and other leaders in the law
 22 enforcement community.

23 ~~(4)~~ ~~(3)~~ Develop and implement, where practicable,
 24 ~~incentives to encourage the adoption or implementation of best~~
 25 ~~practices with the Attorney General, the Secretary of the~~

1 ~~Alabama State Law Enforcement Agency, the Director of the~~
2 ~~Department of Forensic Sciences, and other leaders in the law~~
3 ~~enforcement community.~~

4 ~~(5)~~ ~~(4)~~ (3) Collect feedback from stakeholders,
5 practitioners, and leadership throughout law enforcement,
6 victim services, forensic science practitioners, and health
7 care communities ~~to inform development of future best~~
8 ~~practices or clinical guidelines~~ on ways to best ensure
9 implementation of the national protocols produced by the U.S.
10 Department of Justice.

11 ~~(6)~~ ~~(5)~~ (4) Perform other activities, such as
12 activities relating to development, dissemination, outreach,
13 engagement, or training associated with advancing
14 victim-centered care for sexual assault survivors.

15 (g) No later than two years after the effective date
16 of this act, the task force shall submit to the Attorney
17 General, the Legislature, and the Governor, a report
18 containing the findings and recommended actions of the task
19 force.

20 Section 5. Nothing in this act shall be construed to
21 establish a standard of care for medical providers or
22 physicians, or otherwise modify, amend, repeal, or supersede
23 any provision of Section 6-5-333, Code of Alabama 1975, the
24 Alabama Medical Liability Act of 1987, commencing with Section
25 6-5-540, Code of Alabama 1975, or the Alabama Medical

1 Liability Act of 1996, commencing with Section 6-5-548, Code
2 of Alabama 1975, or any amendment to any of these laws or
3 judicial interpretation of these laws.

4 Section 6. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.

