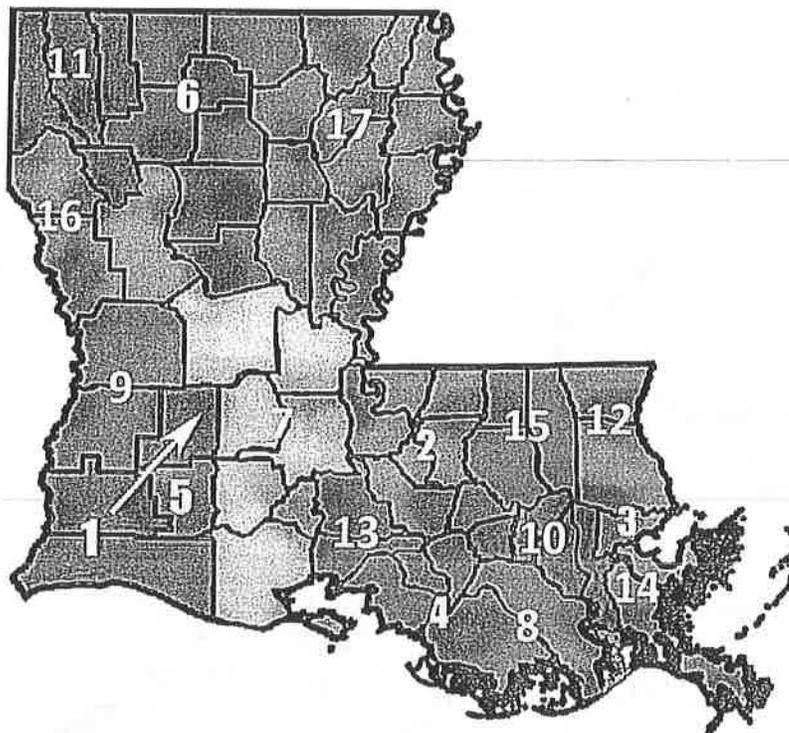


Currently there are no permanent physical points of access to domestic violence services in all sixty-four parishes. This is needed to ensure access to services after leaving their abusers. During this time, victims receive a wide range of services, such as crisis counseling, case management, individual and family assistance, assistance with job placements, and completing petition and supplemental paperwork for Temporary Restraining Orders and Protective Orders. Advocates and volunteers are utilized to accompany victims to the Clerk of Court's Office and/or to assist them in filing a petition for the Court's protection, as well as assisting in all other matters resulting from services provided. More than 90,000 shelter nights and 33,000 crisis calls were handled within the last year. To adequately assist women and their children seeking services, the programs need to provide access to services in all sixty-four parishes.

LOUISIANA COALITION AGAINST DOMESTIC VIOLENCE



1. Oasis A Safe Haven
2. Iris Domestic Violence Center (CAFVIC)
3. New Orleans Family Justice Center
4. Chez Hope Family Violence Crisis Center
5. Jefferson Davis (CADA)
6. Domestic Abuse Resistance Team (DART)
7. Faith House
8. The Haven

9. June N. Jenkins Women's Shelter
10. Metropolitan Center for Women and Children
11. Providence House Domestic Violence and Safe House Program
12. Safe Harbor
13. Safety Net for Abused Persons (SNAP)
14. St. Bernard Battered Women's Program
15. SAFE Program
16. Taylor House, Sabine Shelter, Project Celebration
17. The Wellspring Alliance for Families

U.S. Code (/uscode/text) › Title 42 (/uscode/text/42) › Chapter 46 › **42 U.S. Code § 3796gg-1 - State grants**
(/uscode/text/42/chapter-46) › Subchapter XII-H
(/uscode/text/42/chapter-46/subchapter-XII%E2%80%93H) › § 3796gg-1

Current through Pub. L. 113-163 (<http://www.gpo.gov/fdsys/pkg/PLAW-113publ163/html/PLAW-113publ163.htm>). (See Public Laws for the current Congress (<http://thomas.loc.gov/home/LegislativeData.php?n=PublicLaws>)).

US Code (/uscode/text/42/3796gg-1?qt-us_code_temp_noupdates=0#qt-us_code_temp_noupdates)

Notes (/uscode/text/42/3796gg-1?qt-us_code_temp_noupdates=1#qt-us_code_temp_noupdates)

Authorities (CFR) (/uscode/text/42/3796gg-1?qt-us_code_temp_noupdates=2#qt-us_code_temp_noupdates)
prev (/uscode/text/42/3796gg-0d) | next (/uscode/text/42/3796gg-2)

(a) General grants

The Attorney General may make grants to States, for use by States, State and local courts (including juvenile courts), units of local government, victim service providers, and Indian tribal governments for the purposes described in section 3796gg (/uscode/text/42/usc_sec_42_00003796--gg000-) (b) (/uscode/text/42/usc_sec_42_00003796--gg000-#b) of this title.

(b) Amounts

Of the amounts appropriated for the purposes of this subchapter—

(1) 10 percent shall be available for grants under the program authorized by section 3796gg-10 (/uscode/text/42/3796gg-10) of this title, which shall not otherwise be subject to the requirements of this subchapter (other than section 3796gg-2 (/uscode/text/42/3796gg-2) of this title);

(2) 2.5 percent shall be available for grants for State domestic violence coalitions under section 3796gg (/uscode/text/42/usc_sec_42_00003796--gg000-) (c) (/uscode/text/42/usc_sec_42_00003796--gg000-#c) of this title, with the coalition for each State, the coalition for the District of Columbia, the coalition for the Commonwealth of Puerto Rico, the coalition for Guam, the coalition for American Samoa, the coalition for the United States Virgin Islands, and the coalition for the Commonwealth of the Northern Mariana Islands.,⁽¹⁾ each receiving an amount equal to 1/56 of the total amount made available under this paragraph for each fiscal year;

(3) 2.5 percent shall be available for grants for State sexual assault coalitions under section 3796gg (/uscode/text/42/usc_sec_42_00003796--gg000-) (c) (/uscode/text/42/usc_sec_42_00003796--gg000-#c) of this title, with the coalition for each State, the coalition for the District of Columbia, the coalition for the Commonwealth of Puerto Rico, coalitions for Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each receiving an amount equal to 1/56 of the total amount made available under this paragraph for each fiscal year;

(4) 1/56 shall be available for grants under section 3796gg (/uscode/text/42/usc_sec_42_00003796--gg000-) (d) (/uscode/text/42/usc_sec_42_00003796--gg000-#d) of this title;

(5) \$600,000 shall be available for grants to applicants in each State; and

(6) the remaining funds shall be available for grants to applicants in each State in an amount that bears the same ratio to the amount of remaining

funds as the population of the State bears to the population of all of the States that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

(c) Qualification

Upon satisfying the terms of subsection (d) of this section, any State shall be qualified for funds provided under this subchapter upon certification that—

- (1) the funds shall be used for any of the purposes described in section 3796gg (/uscode/text/42/usc_sec_42_00003796--gg000-) (b) (/uscode/text/42/usc_sec_42_00003796--gg000-#b) of this title;
- (2) grantees and subgrantees shall develop a plan for implementation and shall consult and coordinate with—
 - (A) the State sexual assault coalition;
 - (B) the State domestic violence coalition;
 - (C) the law enforcement entities within the State;
 - (D) prosecution offices;
 - (E) State and local courts;
 - (F) Tribal governments in those States with State or federally recognized Indian tribes;
 - (G) representatives from underserved populations, including culturally specific populations;
 - (H) victim service providers;
 - (I) population specific organizations; and
 - (J) other entities that the State or the Attorney General identifies as needed for the planning process;
- (3) grantees shall coordinate the State implementation plan described in paragraph (2) with the State plans described in section 10407 (/uscode/text/42/10407) of this title and the programs described in sections 10603 (/uscode/text/42/10603) and 280b-1b (/uscode/text/42/280b-1b) of this title.
- (4) ⁽²⁾ of the amount granted—
 - (A) not less than 25 percent shall be allocated for law enforcement;
 - (B) not less than 25 percent shall be allocated for prosecutors;
 - (C) not less than 30 percent shall be allocated for victims services of which at least 10 percent shall be distributed to culturally specific community-based organizations; and
 - (D) not less than 5 percent shall be allocated to State and local courts (including juvenile courts); and
- (4) ⁽²⁾ any Federal funds received under this subchapter shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subchapter. ⁽³⁾
- (5) not later than 2 years after the date of enactment of this Act, ⁽³⁾ and every year thereafter, not less than 20 percent of the total amount granted to a State under this subchapter ⁽³⁾ shall be allocated for programs or projects in 2 or more allocations listed in paragraph (4) that meaningfully address sexual assault, including stranger rape, acquaintance rape, alcohol

or drug-facilitated rape, and rape within the context of an intimate partner relationship.

(d) Application requirements

An application for a grant under this section shall include—

- (1) the certifications of qualification required under subsection (c);
- (2) proof of compliance with the requirements for the payment of forensic medical exams and judicial notification, described in section 3796gg-4 (/uscode/text/42/3796gg-4) of this title;
- (3) proof of compliance with the requirements for paying fees and costs relating to domestic violence and protection order cases, described in section 3796gg-5 (/uscode/text/42/3796gg-5) of this title;
- (4) proof of compliance with the requirements prohibiting polygraph examinations of victims of sexual assault, described in section 3796gg-8 (/uscode/text/42/3796gg-8) of this title;
- (5) an implementation plan required under subsection (i); and
- (6) any other documentation that the Attorney General may require.

(e) Disbursement

(1) In general

Not later than 60 days after the receipt of an application under this subchapter, the Attorney General shall—

- (A) disburse the appropriate sums provided for under this subchapter; or
- (B) inform the applicant why the application does not conform to the terms of section 3763 (/uscode/text/42/3763) ¹³¹ of this title or to the requirements of this section.

(2) Regulations

In disbursing monies under this subchapter, the Attorney General shall issue regulations to ensure that States will—

- (A) give priority to areas of varying geographic size with the greatest showing of need based on the availability of existing domestic violence, dating violence, sexual assault, and stalking programs in the population and geographic area to be served in relation to the availability of such programs in other such populations and geographic areas;
- (B) determine the amount of subgrants based on the population and geographic area to be served;
- (C) equitably distribute monies on a geographic basis including nonurban and rural areas of various geographic sizes; and
- (D) recognize and meaningfully respond to the needs of underserved populations and ensure that monies set aside to fund culturally specific services and activities for underserved populations are distributed equitably among those populations.

(3) Conditions

In disbursing grants under this subchapter, the Attorney General may impose reasonable conditions on grant awards to ensure that the States meet statutory, regulatory, and other program requirements.

(f) Federal share

The Federal share of a grant made under this subchapter ⁽³⁾ may not exceed 75 percent of the total costs of the projects described in the application submitted, except that, for purposes of this subsection, the costs of the projects for victim services or tribes for which there is an exemption under section 13925 (/uscode/text/42/13925) (b)(1) (/uscode/text/42/usc_sec_42_00013925----000-#b_1) of this title shall not count toward the total costs of the projects.

(g) Indian tribes

Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or of the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of the cost of programs or projects funded under this subchapter.

(h) Grantee reporting

(1) In general

Upon completion of the grant period under this subchapter, a State or Indian tribal grantee shall file a performance report with the Attorney General explaining the activities carried out, which report shall include an assessment of the effectiveness of those activities in achieving the purposes of this subchapter.

(2) Certification by grantee and subgrantees

A section of the performance report shall be completed by each grantee and subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant.

(3) Suspension of funding

The Attorney General shall suspend funding for an approved application if—

- (A) an applicant fails to submit an annual performance report;
- (B) funds are expended for purposes other than those described in this subchapter; or
- (C) a report under paragraph (1) or accompanying assessments demonstrate to the Attorney General that the program is ineffective or financially unsound.

(i) Implementation plans

A State applying for a grant under this subchapter shall—

- (1) develop an implementation plan in consultation with the entities listed in subsection (c)(2), that identifies how the State will use the funds awarded under this subchapter, including how the State will meet the requirements of subsection (c)(5); and
- (2) submit to the Attorney General—
 - (A) the implementation plan developed under paragraph (1);
 - (B) documentation from each member of the planning committee as to their participation in the planning process;
 - (C) documentation from the prosecution, law enforcement, court, and victim services programs to be assisted, describing—
 - (i) the need for the grant funds;
 - (ii) the intended use of the grant funds;
 - (iii) the expected result of the grant funds; and

(iv) the demographic characteristics of the populations to be served, including age, disability, race, ethnicity, and language background;

(D) a description of how the State will ensure that any subgrantees will consult with victim service providers during the course of developing their grant applications in order to ensure that the proposed activities are designed to promote the safety, confidentiality, and economic independence of victims;

(E) demographic data on the distribution of underserved populations within the State and a description of how the State will meet the needs of underserved populations, including the minimum allocation for population specific services required under subsection (c)(4)(C);

(F) a description of how the State plans to meet the regulations issued pursuant to subsection (e)(2);

(G) goals and objectives for reducing domestic violence-related homicides within the State; and

(H) any other information requested by the Attorney General.

(j) Reallocation of funds

A State may use any returned or remaining funds for any authorized purpose under this subchapter if—

(1) funds from a subgrant awarded under this subchapter are returned to the State; or

(2) the State does not receive sufficient eligible applications to award the full funding within the allocations in subsection (c)(4) ^[4]

[1] So in original.

[2] So in original. There are two pars. designated "(4)".

[3] See References In Text note below.

[4] So in original. Probably should be followed by a period.

RS 13:5706

§5706. Fees for coroner's services

A.(1) The coroner shall receive:

- (a) For every investigation, including issuing necessary papers and reports, fifty dollars.
- (b) For viewing bodies, fifty dollars.
- (c) For the performance of an autopsy, a fee of not less than two hundred fifty dollars nor more than three hundred dollars, at the discretion of the governing authority of the parish or municipality, and the cost of any laboratory tests actually incurred.
- (d) For attendance or testimony in any case in court in matters arising from his official duties, seventy-five dollars per day per case.
- (e) A fee of fifty dollars for papers issued in each interdiction case or commitment of mental or incompetent case.

(2) The attending or assisting physicians in interdiction or commitment cases shall also receive a fee of fifty dollars.

(3) The coroner shall receive a reasonable fee or compensation, as agreed to by the coroner and the governing authority of the parish or municipality, for any physical or mental examination or investigation when requested by the district attorney, any judge, sheriff, chief of police, or by any responsible citizen or resident when acting in good faith in an emergency and in the furtherance of the public good and safety.

(4) These amounts shall be in addition to any necessary expenses that may be incurred.

(5) The provisions of this Subsection shall only apply to coroners on a fee basis.

(6) Notwithstanding any provision of this Section to the contrary, the affirmative approval of the governing authority of the parish or municipality shall be required for the coroner to charge more than two hundred fifty dollars for the performance of an autopsy. In addition, the affirmative approval of the governing authority of the parish or municipality shall be required for the coroner to charge for any expense, tests, costs, or other fees, when the charge for such expenses, tests, costs, or other fees exceed the maximum charges established in the coroner's annual fee schedule. In such fee schedule, the coroner shall list all fees for which a charge of fifty dollars is authorized by law. Such schedule shall be filed with the governing authority of each affected parish or municipality not later than the last day of January of each year.

B.(1) All necessary or unavoidable expenses, including supplies, incident to the operation and functioning of the coroner's office shall be paid by the parish when such expenses are certified by the coroner as being necessary or unavoidable.

(2) When quarters for the coroner's office or a morgue are established by the parish, the parish shall furnish essential supplies and equipment for the office or morgue.

(3) The parish shall pay the fees for all mental or physical examinations or investigations, commitments, interdictions, court attendance, or testimony and a just fee or remuneration for attending parish prisoners.

C.(1) When a death occurs and the death appears to have been due to natural causes, the coroner of the parish of domicile of the deceased shall be responsible for any investigation into the cause and manner of death and for any examination of the body or autopsy.

(2) When a death occurs and a crime or accident is suspected, the coroner of the parish where the crime or accident occurred shall be responsible for any investigation into the cause and manner of death and for any examination of the body or autopsy.

(3) It shall be the duty of the coroner who makes the final investigation to release the body for burial.

D.(1) The parish or municipality in which the deceased was domiciled, in the case of a death due to natural causes, or the parish or municipality in which the accident or crime occurred, in the case of a death due to other than natural causes, shall pay the coroner's fees and any necessary fees for the investigation and the cost of any autopsy including the cost of transporting the body. However, if the coroner of the parish in which the death occurred initially viewed the body or investigated the death, the fees for such viewing or investigation shall be paid to him by the parish or municipality in which the death occurred.

(2) When a natural death occurs outside the parish of domicile, the coroner of the parish where the death occurs shall forward all information from the initial investigation to the coroner of the parish where the decedent was domiciled. The coroner of the parish of domicile shall complete all the necessary documents, including the death certificate.

(3) Notwithstanding any provision to the contrary, when a death occurs at any state operated health care or treatment facility, any fee paid by the parish governing authority for the viewing and investigation of a body shall be reimbursed by the state. However, this shall not relieve the parish governing authority of the obligation to promptly pay the fee upon being billed therefor.

E. When a death occurs and the death was due to natural causes, the coroner's fees and expenses, including the cost of transporting the body, shall be paid by the municipality in which the deceased was domiciled or by the parish if the deceased was domiciled in the parish outside of a municipality. When a death occurs and the death was due to other than natural causes, the coroner's fees and expenses including the cost of transporting the body shall be paid by the municipality in which the crime or accident occurred or by the parish if the crime or accident occurred in the parish outside of a municipality.

F. Nothing herein shall be construed as prohibiting the payment by the parish or municipality of all necessary or unavoidable expenses certified by the coroner.

G. Payment of fees for coroners' services related to admittance or commitment of patients or residents to any state-operated health care or treatment facility shall be made by a parish immediately upon such admittance or commitment at the option of the coroner rendering such services.

H. Notwithstanding provisions of this Section requiring payments by the parish of fees and expenses for autopsies, when the coroner is responsible for autopsies of six or more persons whose deaths occur within a period of thirty days and during or as the result of a common accident or a disaster, as defined by R.S. 29:704(1),¹ the coroner may apply for payment of such fees and expenses to any federal, state, local, or interjurisdictional agency having disaster relief funds available for expenditure for such purposes, pursuant to R.S. 29:701 et seq.¹ or other law, or, if no such funds are available, to the interim emergency board, pursuant to R.S. 39:461 et seq.

Amended by Acts 1952, No. 151, §2; Acts 1977, No. 52, §1; Acts 1978, No. 429, §1; Acts 1984, No. 570, §1; Acts 1985, No. 241, §1; Acts 1985, No. 614, §1, eff. July 16, 1985; Acts 1986, No. 311, §1; Acts 1987, No. 878, §1; Acts 1988, No. 375, §1; Acts 1990, No. 762, §1; Acts 1991, No. 620, §1; Acts 1992, No. 599, §1; Redesignated from R.S. 33:1556 pursuant to Acts 2011, No. 248, §3.

¹Repealed by Acts 1993, No. 800, §3, eff. June 22, 1993.

NOTE: See Acts 1991, No. 620, §2.

RS 13:5713

§5713. Duty to hold autopsies, investigations, etc.

A. The coroner shall either view the body or make an investigation into the cause and manner of death in all cases involving the following:

- (1) Suspicious, unexpected, or unusual deaths.
- (2) Sudden or violent deaths.
- (3) Deaths due to unknown or obscure causes or in any unusual manner.
- (4) Bodies found dead.
- (5) Deaths due to suspected suicide or homicide.
- (6) Deaths in which poison is suspected.
- (7) Any death from natural causes occurring in a hospital under twenty-four hours of admission.
- (8) Deaths following an injury or accident either old or recent.
- (9) Deaths due to drowning, hanging, burns, electrocution, gunshot wounds, stabs or cutting, lightning, starvation, radiation, exposure, alcoholism, addiction, tetanus, strangulation, suffocation, or smothering.
- (10) Deaths due to trauma from whatever cause.
- (11) Deaths due to criminal means or by casualty.
- (12) Deaths in prison or while serving a sentence.
- (13) Deaths due to virulent contagious disease that might be caused by or cause a public hazard, including acquired immune deficiency syndrome.

B.(1) The coroner may perform or cause to be performed by a competent physician an autopsy in any case in his discretion. The coroner shall perform or cause to be performed by a competent physician an autopsy in the case of any death where there is a reasonable probability that the violation of a criminal statute has contributed to the death.

(2) The coroner or the district attorney may order the disinterment of any dead body within his jurisdiction under the direction or supervision of the person ordering the disinterment or his designee, and may authorize the removal of such dead body to a place designated by the person ordering the disinterment for the purpose of examination and autopsy and, when such is completed, order the reinterment of the body.

(3) The coroner may hold any dead body for any length of time that he deems necessary. However, the coroner shall expedite any investigation at the scene of an accident involving a fatality so as not to unduly delay the removal of the dead body from the accident scene. However, if a bodily substance sample for a toxicology screen is extracted at the accident scene, the extraction procedure shall be performed outside of public view.

(4)(a) He may remove and retain for testing or examination any specimens, organs, or other portion of the remains of the deceased that he may deem necessary or advisable as possible evidence before a grand jury or court, subject to the limitation set forth in R.S. 32:661(A)(2).

(b) The coroner may also remove and retain any specimens or organs of the deceased which in his discretion are necessary or desirable for anatomical, bacteriological, chemical, or toxicological examination, subject to the limitation set forth in R.S. 32:661(A)(2).

C.(1)(a) The coroner shall perform or cause to be performed by a competent physician an autopsy in all cases of infants under the age of one year who die unexpectedly without explanation.

(b) The autopsy shall include microscopic and toxicology studies.

(c) The coroner shall furnish a death certificate based upon his autopsy with his statement, to the best of his knowledge, of the cause and means of death.

of the deceased, provided that the family of the deceased has given written authorization to the coroner or to the requesting physician for the release of such report.

J. Autopsy reports prepared by the coroner or his designee are public records. The coroner shall provide one copy of the autopsy report upon request by the next of kin at no charge to the next of kin. The coroner shall provide copies of the autopsy report at no charge to the appropriate law enforcement agencies as requested. The public records fee for any other copy of an autopsy report shall be the same as that charged by the registrar of vital records for the state for a death certificate.

K.(1) For the purposes of this Section, an autopsy report is the work product of the coroner or his designee. When a coroner investigates a death, the office of the coroner is required to make available for public inspection and copying the autopsy report which shall contain the following:

- (a) Name, age, sex, race, and address of the deceased.
- (b) Date and reported time of death.
- (c) Physical location, including address if available, where the deceased was found.
- (d) Date, time, and place of autopsy, and the name of the doctor performing the autopsy and the names of all persons present at the autopsy.
- (e) Information regarding the autopsy, including whether the autopsy was requested or performed by operation of law, a listing of the physical findings of the autopsy, a summary in narrative form of the medical findings and conclusions, the cause of death, the manner and mechanism of death, and the classification of death as homicide, accidental, suicide, undetermined, or under investigation.

(2) Notwithstanding the provisions of Paragraph (1) of this Subsection, in a non-coroner case, no autopsy report shall be made available for public inspection or copying if the classification of death is that of natural causes except upon request by the next of kin or upon request in compliance with R.S. 13:3715.1.

(3) Notwithstanding the provisions of Paragraph (1) of this Subsection and notwithstanding the provisions of R.S. 13:5714(C), no autopsy report pertaining to criminal litigation as defined in and in accordance with R.S. 44:3(A) shall be required to be made available for public inspection or copying except as otherwise provided by law.

L.(1) Liability shall not be imposed on an elected coroner or his support staff based upon the exercise or performance or the failure to exercise or perform their policymaking or discretionary acts when such acts are within the course and scope of their lawful powers and duties.

(2) The provisions of Paragraph (1) of this Subsection are not applicable to any of the following:

- (a) To acts or omissions which are not reasonably related to the legitimate governmental objective for which the policymaking or discretionary power exists; or
- (b) To acts or omissions which constitute criminal, fraudulent, malicious, intentional, willful, outrageous, reckless, or flagrant misconduct.

(3) The legislature finds and states that the purpose of this Subsection is not to reestablish any immunity based on the status of sovereignty but rather to clarify the substantive content and parameters of application of such legislatively created codal articles and laws and also to assist in the implementation of Article II of the Constitution of Louisiana.

Amended by Acts 1966, No. 312, §1, eff. Jan. 1, 1967; Acts 1981, No. 211, §1; Acts 1984, No. 570, §1; Acts 1985, No. 240, §1; Acts 1985, No. 241, §1; Acts 1986, No. 311, §1; Acts 1986, No. 591, §1; Acts 1987, No. 878, §1; Acts 1988, No. 834, §1; Acts 1999, No. 761, §1, eff. July 2, 1999; Acts 1999, No. 1226, §1; Acts 1999, No. 1293, §1; Acts 1999, No. 1354, §2; Acts 2001, No. 1177, §1; Acts 2003, No. 794, §1; Acts 2011, No. 70, §1; Redesignated from R.S. 33:1563 pursuant to Acts 2011, No. 248, §3; Acts 2014, No. 390, §1; Acts 2014, No. 602, §3, eff. June 12, 2014.

NOTE: See Acts 2003, No. 794, §2, relative to applicability.

RS 15:241

CODE TITLE XXIV. PROCEDURES PRIOR TO TRIAL

§241. Medical, psychological, psychiatric examination of certain victims under age eighteen; polygraph examinations; prohibition

A. If the defendant is charged with a violation of R.S. 14:93 or any provision of Subpart C of Part II, Subpart B of Part IV, or Subpart A(1) or A(4) of Part V of Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950, and the victim was under the age of eighteen at the time of the offense, the defendant shall not be entitled to compel the victim to submit to a medical, psychological, or psychiatric examination, unless the court finds, after a contradictory hearing with the state, that such an examination is necessary and appropriate and will not cause the victim undue emotional stress and is not being sought for the purpose of harassing or intimidating the victim. At such a hearing the defendant shall not be entitled to compel the attendance of the victim.

B. No law enforcement officer, prosecutor, or other governmental official shall request or require any victim, regardless of age, of an alleged sex offense as defined in R.S. 15:541 to submit to a polygraph examination or other device used to measure the truthfulness of the victim as a condition of proceeding with the investigation of the offense.

C. The refusal of a victim of an alleged sex offense to submit to an examination described in Subsection B of this Section shall not prevent the investigation, charging, or prosecution of the offense.

Acts 1995, No. 754, §1; Acts 2008, No. 816, §1.

RS 15:621**§621. Prohibition on destruction of evidence; certain cases**

A. Prior to December 31, 2012, no criminal justice agency or clerk of court shall destroy any biological evidence in its possession in relation to the investigation, prosecution, or adjudication of any of the following enumerated offenses or attempts to commit any of these offenses: homicide (R.S. 14:29), rape (R.S. 14:41), and armed robbery (R.S. 14:64).

B. The provisions of this Section shall apply only in cases in which an offender has been convicted at trial or has entered a guilty plea pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970), and the offender is in the custody of the Department of Public Safety and Corrections.

C. Nothing in this Section should preclude any criminal justice agency or clerk of court from removing parts containing biological evidence from large items of evidence and retaining only the parts containing biological evidence.

D. Failure by any criminal justice agency or clerk of court to comply with the provisions of this Section shall be governed by Code of Criminal Procedure Article 926.1(H)(6).

E. As used in this Section:

(1) "Biological evidence" means the contents of a sexual assault examination kit or any item that contains blood, semen, hair, saliva, skin tissue, fingerprints, or other identifiable human biological material that may reasonably be used to incriminate or exculpate any person in the criminal investigation, whether that material is catalogued separately on a slide or swab, in a test tube, or some other similar method, or is present on clothing, ligatures, bedding, other household materials, drinking cups, cigarettes, or any other item of evidence, including those that are alleged to have been touched or worn by the perpetrator of the offense. Work product generated during DNA analysis shall not be considered biological evidence with the exception of the extracted DNA when the original biological evidence is consumed during analysis. In this event, the extracted DNA shall be retained.

(2) "Criminal justice agency" means any criminal justice agency as defined in R.S. 15:576

(3).

Acts 2011, No. 250, §1, eff. July 1, 2011.

RS 40:2109.1

§2109.1. Procedures for rape victims; emergency rooms of licensed hospitals; immunity

A. All licensed hospitals in Louisiana shall adhere to the following procedures in the event that a person, male or female, presents himself or is presented at the hospital for treatment as a victim of rape, attempted rape, carnal knowledge, or crime against nature:

(1) The victim shall make the decision of whether or not the incident will be reported to law enforcement officials. No hospital may require the person to report the incident in order to receive medical attention.

(2) If the victim does not wish to report the incident to law enforcement officials, the victim shall be examined and treated as a regular emergency room patient. Any injuries requiring medical attention shall be treated in the standard manner. Tests and treatments exclusive to a rape victim shall be explained to the patient, along with the costs for such tests. The patient shall decide whether or not such tests shall be conducted. Any examination and treatment shall include the preservation, in strict confidentiality, for a period of thirty days from the time the victim is presented for treatment, of tests or procedures, or both, and samples that may serve as potential evidence. The patient shall be informed of the length of time for which the specimens will be preserved. If the victim does not wish to report the incident to law enforcement authorities, the hospital's responsibilities, beyond medical treatment, shall be limited to the collection of tests, procedures, or samples that may serve as potential evidence. Any evidence so collected shall then be assigned a code number and the hospital shall maintain code records for a period of thirty days from the date the victim is presented for treatment, said code records to be used for identification should the victim later choose to report the incident. Once a code number has been assigned, custody of such evidence shall be transferred to the local law enforcement agency having jurisdiction in the parish in which the hospital is located, and responsibility for the custody of such evidence shall belong to that law enforcement agency. The hospital shall coordinate the transfer of such evidence with the local law enforcement agency in a manner designed to protect its evidentiary integrity. Evidence which is transferred to the custody of the appropriate law enforcement agency shall bear only the code number assigned by the hospital.

(3) If the victim wishes to report the incident to law enforcement officials, the hospital staff shall contact the appropriate law enforcement agency. After the incident has been reported, 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, and specimens shall be kept for evidence. Such evidence shall be turned over to the law enforcement officers when they arrive to assume responsibility for investigation of the incident.

(4)(a) Notwithstanding any other provisions of this Section, if any person sixteen years old or younger presents himself or is presented at a licensed hospital for treatment as a victim of any of the alleged crimes listed in this Section, the hospital staff shall immediately notify the appropriate law enforcement official.

(b) The coroner of the parish, the district attorney, appropriate law enforcement officials, and hospital personnel may develop procedures pursuant to R.S. 15:440.1 through 440.6 to make a videotape of the person provided for in Subparagraph (a) when a person

fourteen years old or under has been the victim of physical or sexual abuse. The costs of such videotaping may be allocated among the agencies and facilities involved.

(5) Notwithstanding any other provisions of this Section if the victim is physically or mentally incapable of making an intelligent decision, the hospital staff shall immediately notify the appropriate law enforcement officials.

B. These procedures shall constitute minimum standards for the operation and maintenance of hospitals under the provisions of this Part and failure to comply with such standards shall constitute grounds for denial, suspension, or revocation of license under provisions of this Part.

C. When a licensed hospital fails to examine and treat a person, male or female, who has presented himself or herself or who has been presented as a victim of rape, attempted rape, carnal knowledge, or crime against nature, the coroner of the parish shall examine the alleged victim and, if necessary, make arrangements for the treatment of the victim, notwithstanding the provisions of R.S. 33:1625(C). No coroner shall refuse to examine and assist an alleged victim on the grounds the alleged offense occurred outside of or the victim is not a resident of the jurisdiction, provided the crime is reported or assistance is sought as soon as practicable. Nothing in this Subsection shall relieve a licensed hospital of its obligations under Subsections A and B hereof.

D. Any member of the hospital staff who in good faith notifies the appropriate law enforcement official pursuant to Paragraphs (4) and (5) of Subsection (A) of this Section shall have immunity from any civil liability that otherwise might be incurred or imposed because of such notification. Such immunity shall extend to participation in any judicial proceeding resulting from such report.

Added by Acts 1979, No. 716, §3. Amended by Acts 1981, No. 573, §1; Acts 1983, No. 98, §1; Acts 1984, No. 563, §1.

RS 46:2134

§2134. Petition

A. A petition filed under the provisions of this Part shall contain the following:

(1) The name of each petitioner and each person on whose behalf the petition is filed, and the name, address, and parish of residence of each individual alleged to have committed abuse, if known; if the petition is being filed on behalf of a child or person alleged to be incompetent, the relationship between that person and the petitioner.

(2) The facts and circumstances concerning the alleged abuse.

(3) The relationship between each petitioner and each individual alleged to have committed abuse.

(4) A request for one or more protective orders.

B. The address and parish of each petitioner and each person on whose behalf the petition is filed may remain confidential with the court.

C. If the petition requests a protective order for a spouse and alleges that the other spouse has committed abuse, the petition shall state whether a suit for divorce is pending.

D. If the petition requests the issuance of an ex parte temporary restraining order, the petition shall contain an affidavit signed by each petitioner that the facts and circumstances contained in the petition are true and correct to the best knowledge, information, and belief of petitioner. Any false statement under oath contained in the affidavit shall constitute perjury and shall be punishable by a fine of not more than one thousand dollars, or by imprisonment, with or without hard labor, for not more than five years, or both.

E. If a suit for divorce is pending, any application for a protective order shall be filed in that proceeding and shall be heard within the delays provided by this Part. Any decree issued in a divorce proceeding filed subsequent to a petition filed or an order issued pursuant to this Part may, in the discretion of the court hearing the divorce proceeding, supersede in whole or in part the orders issued pursuant to this Part. Such subsequent decree shall be forwarded by the rendering court to the court having jurisdiction of the petition for a protective order and shall be made a part of the record thereof. The findings and rulings made in connection with such protective orders shall not be res judicata in any subsequent proceeding.

F. A petitioner shall not be required to prepay or be cast with court costs or costs of service or subpoena for the filing of the petition or the issuance of a temporary restraining order or protective order pursuant to this Part, and the clerk of court shall immediately file and process the petition and temporary restraining order issued pursuant to this Part, regardless of the ability of the petitioner to pay court costs.

G. If the court orders the issuance of a temporary restraining order, the defendant may be cast for all costs.

Added by Acts 1982, No. 782, §2; Acts 1990, No. 361, §2, eff. Jan. 1, 1991; Acts 1997, No. 1156, §7; Acts 2001, No. 430, §2; Acts 2005, No. 191, §1.

{{NOTE: SEE ACTS 1990, NO. 361, §5.}}

