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HOUSE BILL NO. 1731

Offered January 13, 2025

Prefiled January 4, 2025

A BILL to amend and reenact §§ 32.1-162.15:2 through 32.1-162.15:7, 32.1-162.15:9, 54.1-2910.5, and 54.1-3018.2 of the Code of Virginia and to repeal § 32.1-162.15:11 of the Code of Virginia, relating to services for sexual assault patients; provision of information for sexual assault patients; Task Force on Services for Survivors of Sexual Assault; work group; report.

Patrons—Delaney, Helmer, Henson and Reaser

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-162.15:2 through 32.1-162.15:7, 32.1-162.15:9, 54.1-2910.5, and 54.1-3018.2 of the Code of Virginia are amended and reenacted as follows:

Article 8.**Services for ~~Survivors~~ of Sexual Assault Patients****§ 32.1-162.15:2. Definitions.**

As used in this article, unless the context requires a different meaning:

"Anonymous physical evidence recovery kit" has the same meaning as in § 19.2-11.5.

"Approved pediatric health care facility" means a pediatric health care facility for which a plan for the delivery of services to pediatric ~~survivors~~ of sexual assault *patients* has been approved pursuant to § 32.1-162.15:6.

"Board" means the Board of Health.

"Department" means the Department of Health.

"Emergency contraception" means medication approved by the U.S. Food and Drug Administration that can significantly reduce the risk of pregnancy if taken within 72 hours after sexual assault.

"Follow-up health care" means any physical examination, laboratory tests to determine the presence of sexually transmitted infection, or appropriate medications, including HIV-prophylaxis, provided to a ~~survivor~~ of sexual assault *patient* by a health care provider within 90 days after the date on which treatment or transfer services pursuant to this article are first provided.

~~"Forensic medical examination" means health care services provided to a survivor of sexual assault that include medical history, physical examination, laboratory testing, assessment for drug-facilitated or alcohol-facilitated sexual assault, collection of evidence in accordance with the requirements of Chapter 1.2 (§ 19.2-11.5 et seq.) of Title 19.2, and discharge and follow-up health care planning necessary to ensure the health, safety, and welfare of the survivor of sexual assault and the collection and preservation of evidence that may be used in a criminal proceeding.~~

"Health care facility" means an outpatient surgical hospital or other facility that is licensed by the Department pursuant to this chapter that provides health care services and does not meet the definition of hospital or pediatric health care facility in this section.

"Hospital" means any inpatient hospital licensed by the Department pursuant to this chapter or an inpatient hospital owned or operated by an agency of the Commonwealth that is not a long term care hospital, rehabilitation hospital, or psychiatric hospital.

"Medical forensic examination" means an examination of a sexual assault patient by a health care provider. A "medical forensic examination" may include gathering information from the patient for such patient's medical forensic history; conducting an examination; coordinating treatment of injuries, documenting biological and physical findings, and collecting evidence from the patient in accordance with the requirements of Chapter 1.2 (§ 19.2-11.5 et seq.) of Title 19.2; and providing information, treatment, and referrals to community-based services.

"Pediatric health care facility" means ~~a~~ an inpatient hospital, ~~clinic, or physician's office~~ licensed by the Department pursuant to this chapter that provides health care services to pediatric patients.

"Pediatric ~~survivor~~ of sexual assault *patient*" means a ~~survivor~~ of sexual assault *patient* who is under 18 years of age.

"Physical evidence recovery kit" has the same meaning as in § 19.2-11.5.

"Sexual assault forensic examiner" means a sexual assault nurse examiner, a physician, a physician assistant, an advanced practice registered nurse, or a registered nurse who has completed training that meets or is substantially similar to the Sexual Assault Nurse Examiner Education Guidelines established by the International Association of Forensic Nurses.

"Sexual assault ~~survivor~~ *patient transfer and stabilization services*" means an appropriate medical

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59 ~~examination screening~~ and such stabilizing treatment *in accordance with the Emergency Medical Treatment*
60 *and Active Labor Act, 42 U.S.C. § 1395dd*, as may be necessary prior to the transfer of a sexual assault
61 ~~survivor patient~~ from a transfer hospital to a treatment hospital ~~in accordance with the provisions of a transfer~~
62 ~~plan approved by the Department.~~

63 "Sexual assault ~~survivor patient~~ treatment services" means a ~~forensic medical examination and other~~
64 health care services provided to a sexual assault ~~survivor patient~~ by a hospital in accordance with §
65 32.1-162.15:4 or pediatric health care facility in accordance with § 32.1-162.15:6.

66 "Transfer hospital" means a hospital with a sexual assault ~~survivor patient~~ transfer plan approved by the
67 Department.

68 "Transportation service" means transportation provided to a ~~survivor of~~ sexual assault *patient* who is
69 transferred from a transfer hospital, treatment hospital, or approved pediatric health care facility to a
70 treatment hospital or approved pediatric care facility pursuant to a transfer plan approved in accordance with
71 this article.

72 "Treatment hospital" means a hospital with a sexual assault ~~survivor patient~~ treatment plan approved by
73 the Department to provide sexual assault ~~survivor patient~~ treatment services to all ~~survivors of~~ sexual assault
74 *patients* who present with a complaint of sexual assault within the previous seven days or who have disclosed
75 past sexual assault by a specific individual and were in the care of that individual within the previous seven
76 days.

77 **§ 32.1-162.15:3. Services for sexual assault patients; plan required.**

78 *A. Every health care facility shall provide written information about local or statewide sexual and*
79 *domestic violence advocacy services. Such information shall be readily available to adult and pediatric*
80 *patients.*

81 *B. Every hospital licensed by the Department shall develop and, upon approval by the Department,*
82 *implement a plan to provide either sexual assault ~~survivor patient~~ treatment services or sexual assault*
83 *~~survivor patient~~ transfer and stabilization services for ~~survivors of~~ sexual assault *patients*.*

84 ~~B. C.~~ Sexual assault ~~survivor patient~~ treatment plans shall include provisions for (i) the delivery of
85 services described in § 32.1-162.15:4 and (ii) the storage, retention, and dissemination of photographic
86 evidence in accordance with § 32.1-162.15:8.

87 ~~C. D.~~ Sexual assault ~~survivor patient~~ transfer service plans shall include (i) provisions for the delivery of
88 services described in § 32.1-162.15:5 and (ii) the written agreement of a treatment hospital to accept transfer
89 of ~~survivors of~~ sexual assault *patients*.

90 ~~D. E.~~ A treatment hospital for which a plan has been approved pursuant to subsection ~~B C~~ or a transfer
91 hospital for which a plan has been approved pursuant to subsection ~~C D~~ may enter into an agreement for the
92 transfer of pediatric ~~survivors of~~ sexual assault *patients* from the treatment hospital or transfer hospital to an
93 approved pediatric health care facility pursuant to a pediatric sexual assault ~~survivor patient~~ transfer plan.
94 Such plan shall include (i) provisions for the delivery of services described in § 32.1-162.15:6 and (ii) the
95 written agreement of an approved pediatric health care facility to accept transfer of ~~survivors of~~ sexual assault
96 *patients*.

97 ~~E. F.~~ Sexual assault ~~survivor patient~~ treatment plans, sexual assault ~~survivor patient~~ transfer plans, and
98 pediatric sexual assault ~~survivor patient~~ transfer plans shall be submitted in a form and in accordance with
99 procedures specified by the Board. The Department shall approve or deny such plans, in writing, within 30
100 days of receipt of such plans. If the Department denies a plan submitted pursuant to this section, the
101 Department shall provide the hospital with a written statement setting forth the reasons for such denial.

102 **§ 32.1-162.15:4. Treatment services.**

103 *A. The Board shall adopt regulations to establish standards for review and approval of sexual assault*
104 *~~survivor patient~~ treatment plans, which shall include provisions for the following services, when ordered by a*
105 *health care provider and with the consent of the ~~survivor of~~ sexual assault *patient*:*

106 1. Appropriate ~~forensic~~ medical *forensic* examination;

107 2. Appropriate oral and written information concerning the possibility of infection or sexually transmitted
108 disease, including human immunodeficiency virus (HIV) resulting from the sexual assault, accepted medical
109 procedures and medications for the prevention or treatment of such infection or sexually transmitted disease,
110 and the indications, contraindications, and potential risks of such medical procedures or medications;

111 3. Appropriate evaluations to determine the ~~survivor of~~ sexual assault's *assault patient's* risk of infection
112 or sexually transmitted disease, including HIV, resulting from the sexual assault;

113 4. Appropriate oral and written information regarding the possibility of pregnancy resulting from the
114 sexual assault and medically and factually accurate oral and written information about emergency
115 contraception, the indications and contraindications and potential risks associated with the use of emergency
116 contraception, and the availability of emergency contraception for ~~survivors of~~ sexual assault *patients*;

117 5. Prescriptions of such medications as may be appropriate for treatment of the ~~survivor of~~ sexual assault
118 *patient* both during treatment at the hospital and upon discharge, including, in cases in which prophylactic
119 treatment for infection with HIV is deemed appropriate, an initial dose or all required doses of HIV
120 prophylaxis;

6. Oral and written information regarding the need for follow-up care, including examinations and laboratory tests to determine the presence or absence of sexually transmitted infection or disease and follow-up care related to HIV prophylaxis;

7. ~~Information about medical advocacy services provided by a rape crisis center with which the hospital has entered into a memorandum of understanding pursuant to subsection D Policies and procedures for referral and connection to hospital-based, community-based, or statewide advocacy services for sexual assault patients and their families when available; and~~

8. Referral for appropriate counseling and other support services *based on availability of services*.

B. All appropriate sexual assault ~~survivor~~ *patient* treatment services shall be provided without delay in a private location and in an age-appropriate or developmentally appropriate manner.

~~C. Forensic medical~~ *Medical forensic* examinations provided pursuant to a sexual assault ~~survivor~~ *patient* treatment plan approved by the Board shall include an offer to complete a physical evidence recovery kit. Every treatment hospital for which a sexual assault ~~survivor~~ *patient* treatment plan has been approved by the Department shall report to the Department by December 1 of each year:

1. The total number of patients to whom a ~~forensic medical forensic~~ examination was provided; and

2. The total number of physical evidence recovery kits offered and completed.

D. Every treatment hospital shall ~~(i) enter into a memorandum of understanding with at least one rape crisis center for medical advocacy services for survivors of sexual assault and (ii) adopt procedures to ensure compliance with mandatory reporting requirements pursuant to §§ 63.2-1509 and 63.2-1606.~~

~~E. Records of services provided to survivors of sexual assault patients, including the results of any examination or laboratory test conducted pursuant to subsection A, shall be maintained by the treatment hospital and made available to law enforcement upon request of the survivor of sexual assault patient. Records of services provided to survivors of sexual assault patients 18 years of age and older shall be maintained by the hospital for a period of 20 years from the date the record was created. Records of services provided to survivors of sexual assault patients under 18 years of age shall be maintained for a period of 20 years after the date on which the survivor of sexual assault patient reaches 18 years of age.~~

~~F. E.~~ Every treatment hospital, including every treatment hospital with an approved pediatric sexual assault ~~survivor~~ *patient* plan, shall include in its sexual assault ~~survivor~~ *patient* treatment plan provisions requiring appropriate health care providers who provide services in the hospital's emergency department to annually complete training developed and made available by the Department on the topic of sexual assault, detection of sexual assault, provision of services for ~~survivors of sexual assault patients~~, and collection of evidence in cases involving alleged sexual assault. Such training shall be consistent with best practices outlined by the International Association of Forensic Nurses.

§ 32.1-162.15:5. Transfer services.

The Board shall adopt regulations to establish standards for review and approval of sexual assault ~~survivor~~ *patient* transfer plans and pediatric sexual assault ~~survivor~~ *patient* transfer plans, which shall include provisions for the following services, when ordered by a health care provider and with the consent of the ~~survivor of sexual assault patient~~:

1. Appropriate medical examination and such stabilizing treatment as may be necessary prior to the transfer of a ~~survivor of sexual assault patient~~ from the transfer hospital to a treatment hospital ~~or clinic that provides treatment services for survivors of sexual assault that are comparable to those described in § 32.1-162.15:4;~~

2. Medically and factually accurate written and oral information about emergency contraception, the indications and contraindications and potential risks associated with the use of emergency contraception, and the availability of emergency contraception for ~~survivors of sexual assault patients~~; and

3. Prompt transfer of the ~~survivor of sexual assault patient~~ to a treatment hospital; *or* approved pediatric health care facility, ~~or clinic that provides treatment services for survivors of sexual assault that are comparable to those described in § 32.1-162.15:4~~, as may be appropriate, including provisions necessary to ensure that transfer of the ~~survivor of sexual assault patient~~ or pediatric ~~survivor of sexual assault patient~~ would not unduly burden the ~~survivor of sexual assault patient~~ or pediatric ~~survivor of sexual assault patient~~.

§ 32.1-162.15:6. Services for pediatric sexual assault patients; plan required.

A. A pediatric health care facility may provide treatment services or transfer *and stabilization* services to pediatric ~~survivors of sexual assault patients~~ in accordance with a pediatric sexual assault ~~survivor~~ *patient* treatment plan or pediatric sexual assault ~~survivor~~ *patient* transfer *and stabilization* plan approved by the Department. No pediatric health care facility shall provide pediatric sexual assault treatment or transfer *and stabilization* services to a pediatric ~~survivor of sexual assault patient~~ unless a pediatric sexual assault ~~survivor~~ *patient* treatment plan for the pediatric health care facility has been approved by the Department.

B. A pediatric health care facility wishing to provide pediatric sexual assault ~~survivor~~ *patient* treatment services shall submit a pediatric sexual assault ~~survivor~~ *patient* treatment plan to the Department. The Board shall adopt regulations to establish standards for the review and approval of pediatric sexual assault ~~survivor~~ *patient* treatment plans, which shall include provisions for the delivery of treatment services described in § 32.1-162.15:4.

In cases in which the pediatric health care facility is not able to provide the full range of treatment services required by § 32.1-162.15:4, the plan shall include (i) the specific treatment services that the pediatric health care facility will provide for pediatric ~~survivors of~~ sexual assault *patients*; (ii) provisions for transfer services required by § 32.1-162.15:5 for pediatric ~~survivors of~~ sexual assault *patients* for whom treatment services are not provided by the pediatric health care facility; (iii) the written agreement of a treatment hospital to accept transfer of pediatric ~~survivors of~~ sexual assault *patients* for whom treatment services are not provided by the pediatric health care facility; and (iv) if the pediatric health care facility does not provide services 24 hours per day, seven days per week, provisions to inform the public regarding the need to seek an alternative source of treatment, including emergency medical services, which may include requirements for appropriate signage.

C. A pediatric health care facility wishing to provide pediatric sexual assault ~~survivor~~ *patient* transfer and stabilization services shall submit a pediatric sexual assault ~~survivor~~ *patient* transfer plan to the Department. The Board shall adopt regulations to establish standards for review and approval of pediatric sexual assault ~~survivor~~ *patient* transfer plans, which shall include provisions for (i) the delivery of sexual assault ~~survivor~~ *patient* transfer and stabilization services in accordance with the requirements of § 32.1-162.15:5 and (ii) the written agreement of a treatment hospital to accept transfer of pediatric ~~survivors of~~ sexual assault *patients*.

D. Pediatric sexual assault ~~survivor~~ *patient* treatment plans and pediatric sexual assault ~~survivor~~ *patient* transfer plans shall be submitted in a form and in accordance with procedures specified by the Board. The Department shall approve or deny such plans, in writing, within 30 days of receipt of such plans. If the Department denies a plan submitted pursuant to this section, the Department shall provide the hospital with a written statement setting forth the reasons for such denial.

§ 32.1-162.15:7. Inspections; report required.

A. The Department shall periodically conduct such inspections of hospitals licensed by the Department as may be necessary to ensure that sexual assault ~~survivor~~ *patient* treatment plans, sexual assault ~~survivor~~ *patient* transfer plans, and pediatric sexual assault ~~survivor~~ *patient* transfer plans are implemented in accordance with the requirements of this article.

B. The Department shall report to the Governor and the General Assembly by December 1 of each year on:

1. The name of each hospital that has submitted a sexual assault ~~survivor~~ *patient* treatment plan, sexual assault ~~survivor~~ *patient* transfer plan, or pediatric sexual assault ~~survivor~~ *patient* transfer plan in accordance with the requirements of this section and, for each hospital, the specific type of plan, the date on which the plan was submitted, and the date on which the plan was approved;

2. The name of each hospital that has failed to submit a sexual assault ~~survivor~~ *patient* treatment plan, sexual assault ~~survivor~~ *patient* transfer plan, or pediatric sexual assault ~~survivor~~ *patient* transfer plan in accordance with the requirements of this section;

3. The name of each hospital for which an inspection was performed pursuant to subsection A and for each such hospital, the date of such inspection, and whether the hospital was found to be in compliance with the provisions of the sexual assault ~~survivor~~ *patient* treatment plan, sexual assault ~~survivor~~ *patient* transfer plan, or pediatric sexual assault ~~survivor~~ *patient* transfer plan for such hospital approved by the Department; and

4. For each hospital determined to be out of compliance with the requirements of the sexual assault ~~survivor~~ *patient* treatment plan, sexual assault ~~survivor~~ *patient* transfer plan, or pediatric sexual assault ~~survivor~~ *patient* transfer plan for such hospital approved by the Department, whether a plan of correction was submitted in accordance with the provisions of subsection A.

§ 32.1-162.15:9. Submission of evidence.

Every treatment hospital and approved pediatric health care facility that provides a ~~forensic~~ medical forensic examination that includes completion of a physical evidence recovery kit to a ~~survivor of~~ sexual assault *patient* who has elected to report the assault to law enforcement shall notify the law-enforcement agency with the primary responsibility for investigating an alleged sexual assault within four hours of the ~~forensic~~ medical forensic examination and arrange for collection of the physical evidence recovery kit within a reasonable timeframe. A treatment hospital or approved pediatric health care facility that provides a ~~forensic~~ medical forensic examination that includes completion of a physical evidence recovery kit to a ~~survivor of~~ sexual assault *patient* who elects not to report the sexual assault to law enforcement shall comply with the provisions of § 19.2-11.6 relating to anonymous physical evidence recovery kits.

§ 54.1-2910.5. Pediatric sexual assault patient services; requirements.

Any health care practitioner licensed by the Board to practice medicine or osteopathy or as a physician assistant, or jointly licensed by the Board and the Board of Nursing as an advanced practice registered nurse, who wishes to provide sexual assault ~~survivor~~ *patient* treatment services or sexual assault ~~survivor~~ *patient* transfer and stabilization services, as defined in § 32.1-162.15:2, to pediatric ~~survivors of~~ sexual assault *patients*, as defined in § 32.1-162.15:2, shall comply with the provisions of Article 8 (§ 32.1-162.15:2 et seq.) of Chapter 5 of Title 32.1 applicable to pediatric medical care facilities.

§ 54.1-3018.2. Pediatric sexual assault patient services; requirements.

Any person licensed by the Board as a registered nurse who wishes to provide sexual assault ~~survivor~~ *patient* treatment services or sexual assault ~~survivor~~ *patient* transfer and stabilization services, as defined in § 32.1-162.15:2, to pediatric ~~survivors~~ of sexual assault *patients*, as defined in § 32.1-162.15:2, shall comply with the provisions of Article 8 (§ 32.1-162.15:2 et seq.) of Chapter 5 of Title 32.1 applicable to pediatric medical care facilities.

2. That § 32.1-162.15:11 of the Code of Virginia is repealed.

3. That the Director of the Department of Criminal Justice Services (the Director) shall convene a work group to address sustainable funding for sexual assault medical forensic examinations and services to include the Commissioner of Health or his designee, the Executive Director of the Virginia Workers' Compensation Commission or his designee, the Executive Secretary of the Supreme Court of Virginia or his designee, two representatives from the Virginia Hospital & Healthcare Association, two representatives from the Virginia Chapter of the International Association of Forensic Nurses, one representative from the Medical Society of Virginia, one representative from the Virginia Nurses Association, two representatives from the Virginia Sexual and Domestic Violence Action Alliance, and other stakeholders designated by the Director or his designee. The work group shall submit a report with recommendations to the Chairs of the House Committee on Health and Human Services, the House Committee on Appropriations, the Senate Committee on Education and Health, and the Senate Committee on Finance and Appropriations by November 1, 2025.