

# SUMMARY OF LAWS & GUIDELINES

## Payment of Sexual Assault Medical Forensic Examinations

*CURRENT AS OF AUGUST 2012*



**AEQUITAS: THE PROSECUTORS' RESOURCE ON VIOLENCE AGAINST WOMEN**  
1101 H STREET NW, SUITE 310 | WASHINGTON, DC 20005  
P: (202) 558-0040 | F: (202) 393-1918  
[WWW.AEQUITASRESOURCE.ORG](http://WWW.AEQUITASRESOURCE.ORG)

Research initiated by Dr. Lisa Newmark and students at George Mason University and Darakshan Raja at Urban Institute

Completed by Charlene Whitman, Attorney Advisor at AEquitas: the Prosecutors' Resource on Violence Against Women and Jessica Katz, Esq.

Contributions also made by Kim Lonsway, Research Director and Joanne Archambault, Executive Director at End Violence Against Women International.

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# Alabama

## ALA. CODE § 15-23-5 (2011). CRIME VICTIMS COMPENSATION COMMISSION POWERS AND DUTIES

The commission shall have all the powers and privileges of a corporation and all of its business shall be transacted in the name of the commission. In addition to any other powers and duties specified elsewhere in this article, the commission shall have the power to:

- (1) Regulate its own procedures except as otherwise provided in this chapter.
- (2) Define any term not defined in this article.
- (3) Prescribe forms necessary to carry out the purposes of this article.
- (4) Obtain access to investigative reports made by law enforcement officers or law enforcement agencies which may be necessary to assist the commission in making a determination of eligibility for compensation under this article; provided however, the reports and the information contained herein, when received by the commission, shall be confidential and under no circumstances shall the commission disclose the same except to a grand jury.
- (5) Take judicial notice of general, technical, and scientific facts within their specialized knowledge.
- (6) Publicize the availability of compensation and information regarding the filing of claims therefor.
- (7) Collect all moneys provided by this article to be collected by the commission.
- (8) Provide for and maintain all necessary administrative facilities and personnel.
- (9) Provide for payment of all administrative salaries, fees, and expenses.
- (10) Cause its moneys to be invested and its investments sold or exchanged and the proceeds and income collected.
- (11) Determine who is a victim or dependent.
- (12) Pass upon all applications for compensation or other benefits provided for in this article.
- (13) Authorize executive director to pass upon all supplemental applications for compensation in an amount not to exceed one thousand dollars (\$1,000) and to pass upon all original applications for claims in an amount not to exceed two thousand dollars (\$2,000).
- (14) Adopt rules and regulations as may be necessary or desirable to expedite the administration of the affairs of the commission not inconsistent with this article.
- (15) Provide descriptive literature respecting the commission and its duties.
- (16) Pay all compensation or other benefits that may be determined to be due under this article and under the rules and regulations of the commission.
- (17) Employ such agents, attorneys, actuaries, and other specialized personnel as shall be necessary or desirable to enable the commission to carry on its functions in a proper and sound manner.
- (18) Receive by gift, grant, devise, or bequest any moneys or properties of any nature or description.
- (19) Accept and administer loans, grants, and donations from the federal government, its agencies, and all other sources, public and private, for carrying out any of its functions.
- (20) Develop a comprehensive analysis of the problems regarding victims of crime within the criminal justice system or systems of this state and formulate model programs, plans, or methods for lessening the physical, mental, or financial burdens placed on innocent crime victims by the operation of the criminal justice system both on the state and local level.
- (21) Identify laws, rules, or regulations proposed or adopted by any agency or institution of this state or any political subdivision thereof which have or will have a significant adverse or beneficial impact upon crime victims and to advocate the adoption, repeal, or modification thereof in the interest of innocent victims of crime.
- (22) Collect, develop, and maintain statistical information, records, and reports as the commission may determine relevant or necessary to carry out its powers, duties, or functions pursuant to this article. All agencies and institutions of this state or the political subdivisions thereof shall, upon a written request by

the commission, furnish to the commission statistical information or data as the commission shall deem necessary to fulfill its duties and responsibilities.

(23) Award loans or grants of money, equipment, or personnel to public or private nonprofit corporations or associations, agencies of the State of Alabama or political subdivisions thereof, or to state, county, or municipal law enforcement, prosecutorial or judicial agencies upon terms and conditions as the commission may deem proper for the purpose of developing, enhancing, or establishing bona fide model crime victims service programs which emphasize the collection of restitution from criminals as an integral part of the criminal justice process, but the loans or grants shall only be awarded when sufficient funds are available in excess of reasonably anticipated or projected claims for compensation.

(24) Provide for the cost of medical examinations for the purpose of gathering evidence and treatment for preventing venereal disease in sexual abuse crimes and offenses.

(25) Carry out any powers expressly granted elsewhere in this article to the commission.

(26) All other powers necessary for the proper administration of this article.

### **ALA. ADMIN. CODE R. 262-X-11-.01. SEXUAL ASSAULT EXAMINATION PAYMENTS**

Program Description: This section provides for payment of the initial forensic examination which is performed on victims of sexual offenses for the purpose of obtaining evidence to pursue criminal charges against sexual assault offenders. Expenses incurred for processing sexual assault examination kits are eligible. Sexual assault examination kits developed by the Alabama Department of Forensics and comparable kits shall be eligible for payment pursuant to this section. Child sexual assault examinations shall also be eligible for payment pursuant to this section.

#### **(1) Application and Payment Procedures**

(a) Charges for the sexual assault examination must be submitted by a hospital, physician or SANE (Sexual Assault Nurse Examiner) program to be eligible for payment pursuant to this section.

(b) Payment for the examination shall be made regardless of whether the victim pursues prosecution of the offender.

(c) Testing and preventative treatment for sexually transmitted diseases and pregnancy shall be eligible for payment pursuant to this section when submitted with proper documentation. The victim must make application for compensation to have other treatment related to the incident considered for payment.

#### **(2) Payment for the following shall not be eligible for payment under this section:**

(a) treatment for injuries;

(b) medication such as anti-depressants, sedatives or tranquilizers.

(c) Payment shall be submitted directly to the service provider unless payment has been made by the victim in which case the victim shall be reimbursed.

### **ALA. ADMIN. CODE R. 262-X-11-.02. ELIGIBILITY CRITERIA FOR SEXUAL ASSAULT PAYMENTS**

In order to be eligible for payment, the request or billing statement must meet the following criteria:

(1) Expenses must have been incurred on or after July 27, 1995;

(2) The victim is not required to report the sexual assault to law enforcement in order to be eligible pursuant to this section.

(3) The victim is not required to prosecute in order to be eligible under this section. If investigation determines that a rape or sexual assault did not occur (i.e., repeat false reports), the submitted bill shall be denied;

(4) The Commission shall reduce an award amount by the amount already received from a collateral source;

(5) Reimbursement shall not be made for the cost of the Sexual Assault Evidence Collection Kit if the kit was provided at no cost to the health care provider.

## Alaska

### **ALASKA STAT. § 18.68.010. SEXUAL ASSAULT EXAMINATION KIT**

(a) The Department of Public Safety and the Department of Law shall develop a uniform sexual assault examination kit.

(b) Under protocols developed under AS 18.68.020,  
(1) the Department of Public Safety shall distribute the kits throughout the state; and  
(2) peace officers and health care providers shall use the kits for the gathering of evidence in cases of suspected sexual assault.

(c) The appropriate person under the protocols developed under AS 18.68.020 shall provide a sexual assault examination kit at no charge.

(d) This section does not prohibit the introduction in court of evidence obtained without the use of a sexual assault examination kit.

### **ALASKA STAT. § 18.68.040. SEXUAL ASSAULT VICTIM MAY NOT BE REQUIRED TO PAY FOR EXAMINATION**

A law enforcement agency, health care facility, or other entity may not require a victim of sexual assault under AS 11.41.410--11.41.425 who is 16 years of age or older to pay, directly or indirectly, through health insurance or any other means, for the costs of examination of the victim necessary for

(1) collecting evidence using the sexual assault examination kit under AS 18.68.010 or otherwise; or  
(2) determining whether a sexual assault has occurred.

### **ALASKA STAT. § 12.36.200 PRESERVATION OF EVIDENCE**

(a) Notwithstanding AS 12.36.010--12.36.090, the Department of Law, the Department of Public Safety, the Alaska Court System, or a municipal law enforcement agency shall preserve

(1) all evidence that is obtained in relation to an investigation or prosecution of a crime under AS 11.41.100--11.41.130, 11.41.410, or 11.41.434 for the period of time that the crime remains unsolved or 50 years, whichever ends first;

(2) biological evidence in an amount and manner that is sufficient to develop a DNA profile from any material contained in or included on the evidence that was obtained in relation to the prosecution of a person convicted of, or adjudicated a delinquent for, a crime under AS 11.41.100--11.41.130, a person convicted of a crime after being indicted under AS 11.41.410 or 11.41.434 while the person remains a prisoner in the custody of the Department of Corrections or subject to registration as a sex offender, or a person adjudicated a delinquent for a crime after the filing of a petition alleging a violation of AS 11.41.410 or 11.41.434 while the person remains committed to a juvenile facility or subject to registration as a sex offender.

(b) Under (a) of this section, an agency is not required to preserve physical evidence of a crime that is of a size, bulk, quantity, or physical character that renders preservation impracticable. When preservation of evidence of a crime is impracticable, the agency shall, before returning or disposing of the evidence, remove and preserve portions of the material likely to contain relevant evidence related to the crime in a quantity sufficient to permit future DNA testing. In making decisions under this section, an agency shall follow written policies on evidence retention.

(c) Upon written request of a person convicted of a crime and a prisoner, adjudicated delinquent for a crime and committed, or subject to registration as a sex offender, an agency shall prepare or provide an inventory of biological evidence that has been preserved under (a)(2) of this section in connection with the person's criminal case.

(d) An agency required to preserve biological evidence under (a) of this section may destroy biological evidence before the expiration of the time period in (a)(2) of this section if

(1) the agency is not required to maintain the evidence under another provision of state or federal law;

(2) the agency sends, by certified mail with proof of delivery, notice of its intent to destroy evidence to (A) each person who remains a prisoner or committed or subject to registration as a sex offender for the crime for which the evidence was preserved under (a)(2) of this section;

(B) the attorneys of record, if known, for each person listed in (A) of this paragraph;

(C) the Public Defender Agency;

(D) the district attorney responsible for prosecuting the crime; and

(3) no person who is notified under (2) of this subsection, within 120 days after receiving the notice,

(A) files a motion for testing of the evidence; or

(B) submits a written request for continued preservation of the evidence.

(e) Upon receipt of a request for continued preservation of biological evidence under (d)(3)(B) of this section, an agency may petition the court for permission to destroy the evidence. The court may grant the petition if the court finds that the request is without merit or that the evidence has no significant value for biological material.

(f) When an agency is required to produce biological evidence required to be preserved under this section and the agency is unable to locate the evidence, the chief evidence custodian of that agency shall submit an affidavit, executed under penalty of perjury, describing the evidence that could not be located and detailing the efforts taken to locate the evidence.

(g) If a court finds that evidence was destroyed in violation of the provisions of this section, the court may order remedies the court determines to be appropriate.

(h) A person may not bring a civil action for damages against the state or a political subdivision of the state, their officers, agents, or employees, or a law enforcement agency, its officers, or employees for any unintentional failure to comply with the provisions of this section.

(i) In this section,

(1) "agency" means the Department of Law, the Department of Public Safety, the Alaska Court System, or a municipal law enforcement agency;

(2) "biological evidence" means

(A) the contents of a sexual assault forensic examination kit;

(B) semen, blood, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids, or other identifiable human bodily material collected as part of a criminal investigation;

(C) a slide, swab, or test tube containing material described in (B) of this paragraph; and

- (D) swabs or cuttings from items that contain material described in (B) of this section;
- (3) "DNA" means deoxyribonucleic acid;
- (4) "prisoner" has the meaning given in AS 33.30.901.

## American Samoa

No statutes found.<sup>1</sup>

## Arizona

### **ARIZ. REV. STAT. (2011). § 13-1414 EXPENSES OF INVESTIGATION**

Any medical or forensic interview expenses arising out of the need to secure evidence that a person has been the victim of a dangerous crime against children as defined in § 13-705 or a sexual assault shall be paid by the county in which the offense occurred.

### **ARIZ. REV. STAT. (2011). § 13-4221 PRESERVATION OF BIOLOGICAL EVIDENCE; RETENTION PERIOD; DEFINITIONS**

A. Notwithstanding any other law, the appropriate governmental entity shall retain all identified biological evidence that is secured in connection with a felony sexual offense or homicide for:

1. The period of time that a person who was convicted of a felony sexual offense or homicide remains incarcerated for that offense or until the completion of the person's supervised release.
2. A cold case, fifty-five years or until a person is convicted of the crime and remains incarcerated or under supervised release for that offense.

B. The governmental entity shall preserve the evidence for the period of time prescribed in subsection A of this section in a condition that is suitable for deoxyribonucleic acid testing.

C. Evidence retained pursuant to this section shall be made available for deoxyribonucleic acid testing pursuant to § 13-4240.

D. The government entity that investigates the crime may establish procedures for retaining probative samples of the biological evidence and disposing of bulk evidence that do not affect the suitability of the probative sample for deoxyribonucleic acid testing. The government entity responsible for retaining the samples shall obtain approval from the county attorney or attorney general before disposal of any bulk evidence. Before the disposal of any bulk evidence, reasonable efforts shall be made to provide written notice to the victim.

E. This section does not preclude a governmental entity from disposing of evidence in a case in which a conviction has been obtained after the expiration of the defendant's sentence. Under any other

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<sup>1</sup> As a practice note for American Samoa, there are no codified laws related to payment for sexual assault forensic examinations; however, the jurisdiction has been paying for local victim examinations through funding provided by the Violence Against Women Act and the Victims of Crimes Act awards. Currently, there is a memorandum of understanding with the local hospital for payment while legislation is submitted for review.

circumstance, the governmental entity may dispose of physical evidence after the conclusion of the convicted defendant's direct appeal and first postconviction relief proceeding or after the time for initiating the direct appeal and first postconviction relief proceeding has expired, with the agreement of the county attorney or the attorney general and then, upon written notice to the defendant, any counsel of record and the victim if no other law requires that biological evidence be preserved or retained.

F. This section does not limit a governmental entity's discretion concerning the conditions under which biological evidence is retained, preserved or transferred among different entities if the evidence is retained in a condition that is suitable for deoxyribonucleic acid testing.

G. For the purposes of this section:

1. "Biological evidence" includes a sexual assault forensic examination kit, semen, blood, saliva, hair, skin tissue or other identified biological material.
2. "Cold case" means a homicide or a felony sexual offense that remains unsolved for one year or more after being reported to a law enforcement agency and that has no viable and unexplored investigatory leads.

## Arkansas

### **ARK. CODE ANN. (2011). § 12-12-402 PROCEDURES GOVERNING MEDICAL TREATMENT**

(a) All medical facilities or licensed health care providers conducting medical-legal examinations in Arkansas shall adhere to the procedures set forth in this section in the event that a person presents himself or herself or is presented for treatment as a victim of rape, attempted rape, any other type of sexual assault, or incest.

(b)(1)(A) Any adult victim presented for medical treatment shall make the decision of whether or not the incident will be reported to a law enforcement agency.

(B) No medical facility or licensed health care provider may require an adult victim to report the incident in order to receive medical treatment.

(C)(i) Evidence will be collected only with the permission of the victim.

(ii) However, permission shall not be required when the victim is unconscious, mentally incapable of consent, or intoxicated.

(2)(A) Should an adult victim wish to report the incident to a law enforcement agency, the appropriate law enforcement agencies shall be contacted by the medical facility or licensed health care provider or the victim's designee.

(B)(i) The victim shall be given a medical screening examination by a qualified medical person as provided under the Emergency Medical Treatment and Active Labor Act, 42 U.S.C. § 1395dd, as in effect on January 1, 2001, if the victim arrives at the emergency department of a hospital, and the person shall be examined and treated and any injuries requiring medical attention will be treated in the standard manner.

(ii) A medical-legal examination shall be conducted and specimens shall be collected for evidence.

(C) If a law enforcement agency has been contacted and with the permission of the victim, the evidence shall be turned over to the law enforcement officers when they arrive to assume responsibility for investigation of the incident.

(c)(1) Any victim under eighteen (18) years of age shall be examined and treated, and any injuries requiring medical attention shall be treated in the standard manner.

(2) A medical-legal examination shall be performed, and specimens shall be collected for evidence.



(3) The reporting medical facility or licensed health care provider shall follow the procedures set forth in Subchapter 4 of the Child Maltreatment Act, § 12-18-101 et seq., regarding the reporting of injuries to victims under eighteen (18) years of age.

(4) The evidence shall be turned over to the law enforcement officers when they arrive to assume responsibility for investigation of the incident.

(d) Reimbursement for the medical-legal examinations shall be available to the medical facility or licensed health care provider pursuant to the procedures set forth in § 12-12-403.

(e) The victim shall not be transferred to another medical facility unless:

(1)(A) The victim or a parent or guardian of a victim under eighteen (18) years of age requests the transfer; or

(B) A physician, or other qualified medical personnel when a physician is not available, has signed a certification that the benefits to the patient's health would outweigh the risks to the patient's health as a result of the transfer; and

(2) The transferring medical facility or licensed health care provider provides all necessary medical records and ensures that appropriate transportation is available.

#### **ARK. CODE ANN. (2011). § 12-12-403 EXAMINATIONS AND TREATMENT—PAYMENT**

(a) All licensed emergency departments shall provide prompt, appropriate emergency medical-legal examinations for sexual assault victims.

(b)(1)(A) All victims shall be exempted from the payment of expenses incurred as a result of receiving a medical-legal examination provided the victim must receive the medical-legal examination within seventy-two (72) hours of the attack.

(B) However, the seventy-two-hour time limitation may be waived if the victim is a minor or if the Crime Victims Reparations Board finds that good cause exists for the failure to provide the exam within the required time.

(2)(A) This subsection does not require a victim of sexual assault to participate in the criminal justice system or to cooperate with law enforcement in order to be provided with a forensic medical exam or reimbursement for charges incurred on account of a forensic medical exam, or both.

(B) Subdivision (b)(2)(A) of this section does not preclude a report of suspected abuse or neglect as permitted or required by the Child Maltreatment Act, § 12-18-101 et seq.

(c)(1) A medical facility or licensed health care provider that performs a medical-legal examination shall submit a sexual assault reimbursement form, an itemized statement that meets the requirements of 45 C.F.R. § 164.512(d), as it existed on January 2, 2001, directly to the board for payment.

(2) The medical facility or licensed health care provider shall not submit any remaining balance after reimbursement by the board to the victim.

(3) Acceptance of payment of the expenses of the medical-legal examination by the board shall be considered payment in full and bars any legal action for collection.

#### **ARK. CODE ANN. (2011) § 12-12-404. REIMBURSING MEDICAL FACILITY**

(a) The Crime Victims Reparations Board may reimburse any medical facility or licensed health care provider that provides the services outlined in this subchapter for the reasonable cost for such services.

(b) The board is empowered to prescribe minimum standards, rules, and regulations necessary to implement this subchapter. These shall include, but not be limited to, a cost ceiling for each claim and the determination of reasonable cost.

## **ARK. CODE R. §143.00.1-20. ELIGIBILITY REQUIREMENTS AND APPLICATION REVIEW PROCEDURE FOR THE SEXUAL ASSAULT REIMBURSEMENT PROGRAM**

### *DEFINITIONS*

“Victim” means any person who has been a victim of any alleged sexual assault or incest.

“Appropriate emergency medical-legal examinations” means health care delivered with emphasis on the collection of evidence for the purpose of prosecution and shall include, but not be limited to:

1. The appropriate components contained in an evidence collection kit for sexual assault examinations distributed by the Forensic Biology Section of the State Crime Laboratory;

“Medical facility” means any health care provider that is currently licensed by the Department of Health and providing emergency services, and all publicly owned or tax-supported medical facilities in Arkansas.

“Licensed health care provider” means a person licensed in a health care field who conducts medical-legal examinations.

### *PROCEDURES GOVERNING MEDICAL TREATMENT ADULT VICTIMS*

1. All medical facilities in Arkansas or licensed health care providers conducting medical-legal examinations shall adhere to the procedures set forth below in the event that a person presents himself or is presented for treatment as a victim of rape, attempted rape, any other type of sexual assault, or incest.

2. Any adult victim presented for medical treatment shall make the decision of whether or not the incident will be reported to a law enforcement agency.

a. No medical facility or licensed health care provider may require an adult victim to report the incident in order to receive medical treatment.

b. Evidence will be collected only with the permission of the victim. However, permission shall not be required in instances where the victim is unconscious, mentally incapable of consent or intoxicated.

3. Should an adult victim wish to report the incident to a law enforcement agency, the medical facility, licensed health care provider, or his designee shall contact the appropriate law enforcement agencies.

a. The victim shall be given a medical screening examination by a qualified medical person as provided under the Emergency Medical Treatment and Active Labor Act, as in effect on January 1, 2001. If the victim arrives at the emergency department of a hospital, the person shall be examined, treated and any injuries requiring medical attention will be treated in the standard manner and a medical-legal examination shall be conducted and specimens shall be collected for evidence.

b. If a law enforcement agency has been contacted and with the permission of the victim, the evidence shall be turned over to the law enforcement officers when they arrive to assume responsibility for investigation of the incident.

### *PROCEDURES GOVERNING MEDICAL TREATMENT OF MINOR VICTIMS*

1. All medical facilities in Arkansas shall adhere to the procedures set forth below in the event that a person under the age of eighteen (18) presents himself/herself or is presented at the medical facility for treatment as a victim of rape, attempted rape, any other type of sexual assault, or incest.

2. The reporting medical facility or licensed health care provider conducting the medical-legal examination should follow the procedures set forth in A.C.A. § 12-12-507 regarding the reporting of child maltreatment.

3. Any victim under the age of eighteen (18) years of age shall be examined and treated and any injury requiring medical attention will be treated in the standard manner.
4. A medical-legal examination shall be performed and specimens shall be collected for evidence.
5. The evidence shall be turned over to the law enforcement officers when they arrive to assume responsibility for investigation of the incident.

#### *PROCEDURES APPLICABLE TO BOTH ADULT AND MINOR VICTIMS TRANSFERS*

The victim shall not be transferred to another medical facility unless:

- a. The victim or the parents or guardian of a victim under the age of eighteen (18) requests to be transferred, or
- b. A physician or other qualified medical personnel when a physician is not available has signed a certification that the benefits to the patient's health would outweigh the risks to the patient's health as a result of the transfer, and
- c. The transferring medical facility or licensed health care provider provides all necessary medical records and insures that appropriate transportation is available.

#### *EXAMINATIONS AND TREATMENT – PAYMENTS*

1. All licensed emergency departments shall provide prompt, appropriate emergency medical-legal examinations for sexual assault victims.
2. All victims shall be exempted from the payment of expenses incurred as a result of receiving a medical-legal examination provided the following conditions are met:
  - a. The assault must be reported to a law enforcement agency, and
  - b. The victim must receive the medical-legal examination within seventy-two (72) hours of the attack.
  - c. The seventy-two (72) hour time limitation may be waived, if the victim is a minor or if the Arkansas Crime Victims Reparations Board finds that good cause exists for the failure to provide the exam within the required time.
3. A medical facility or licensed health care provider that performs a medical-legal examination shall submit a sexual assault reimbursement form and an itemized statement which meets the requirements of 45 C.F. R. 164.512(d), as it existed on January 2, 2001, directly to the Arkansas Crime Victims Reparations Board for payment.
4. The medical facility or licensed health care provider shall not submit any remaining balance after reimbursement by the Arkansas Crime Victims Reparations Board to the victim.
5. Acceptance of payment of the expenses of the medical-legal examination by the Arkansas Crime Victims Reparations Board shall be considered payment in full and bars any legal action for collection.

#### *REIMBURSEMENT OF ALL MEDICAL FACILITIES*

1. The Arkansas Crime Victims Reparations Board may reimburse any medical facility or licensed health care provider for reasonable and customary costs of performing a medical-legal examinations for sexual assault victims. The Board may mandate cost ceilings for claims and determine reasonable cost.
2. Medical facilities must be currently licensed by the Department of Health and providing emergency services.
3. Medical facilities and licensed health care providers are responsible for fulfillment of the following procedures since reimbursement is made directly to them:
  - a. Claims will be paid only if submitted on Arkansas Crime Victims Reparations Board Sexual Assault Reimbursement Forms.
  - b. The medical facility must send the reimbursement form with the attached itemized bills to the Arkansas Crime Victims Reparations Board.

4. Acceptance of payment for services paid by the Arkansas Crime Victims Reparations Board shall be considered payment in full and bars any legal action for collection. The medical facility or licensed health care provider to whom the award is made will be notified that by accepting the approved payment, they are agreeing not to commence civil actions against the victim or his/her legal representative to recover any balance due under the bill.

5. The victim shall not be responsible for the payment of the cost of the medical-legal examination. A medical facility or licensed health care provider shall not submit any remaining balance after reimbursement by this Board to the victim.

#### **ARK. CODE R. § 143.00.1-21. COST CEILING ON MEDICAL BILLS**

In connection with claims for payment on medical bills, not covered by insurance, made by victims, the Board will award up to 65% of medical bills, not to exceed a total reimbursement of \$10,000. However, for those victims whose injuries are catastrophic and result in a total and permanent disability, the total reimbursement shall not exceed \$25,000.

The provider of medical services to whom the award is made will be notified that by accepting the payment of 65% of their bill, they are agreeing not to commence civil actions against the victim or his legal representative to recover the balance due under the bill.

Acceptance of payment for services paid by the Arkansas Crime Victims Reparations Board shall be considered payment in full and bars any legal action for collection.

#### **ARK. CODE ANN. § 12-18-402. MANDATED REPORTERS**

(a) An individual listed as a mandated reporter under subsection (b) of this section shall immediately notify the Child Abuse Hotline if he or she:

(1) Has reasonable cause to suspect that a child has:

(A) Been subjected to child maltreatment; or

(B) Died as a result of child maltreatment; or

(2) Observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment.

(b) The following individuals are mandated reporters under this chapter:

(1) A child care worker or foster care worker;

(2) A coroner;

(3) A day care center worker;

(4) A dentist;

(5) A dental hygienist;

(6) A domestic abuse advocate;

(7) A domestic violence shelter employee;

(8) A domestic violence shelter volunteer;

(9) An employee of the Department of Human Services;

(10) An employee working under contract for the Division of Youth Services of the Department of Human Services;

(11) A foster parent;

(12) A judge;

(13) A law enforcement official;

(14) A licensed nurse;

(15) Medical personnel who may be engaged in the admission, examination, care, or treatment of persons;

- (16) A mental health professional;
- (17) An osteopath;
- (18) A peace officer;
- (19) A physician;
- (20) A prosecuting attorney;
- (21) A resident intern;
- (22) A school counselor;
- (23) A school official;
- (24) A social worker;
- (25) A surgeon;
- (26) A teacher;
- (27) A court-appointed special advocate program staff member or volunteer;
- (28) A juvenile intake or probation officer;
- (29) A clergy member, which includes a minister, priest, rabbi, accredited Christian Science practitioner, or other similar functionary of a religious organization, or an individual reasonably believed to be so by the person consulting him or her, except to the extent the clergy member:
  - (A) Has acquired knowledge of suspected child maltreatment through communications required to be kept confidential pursuant to the religious discipline of the relevant denomination or faith; or
  - (B) Received the knowledge of the suspected child maltreatment from the alleged offender in the context of a statement of admission;
- (30) An employee of a child advocacy center or a child safety center;
- (31) An attorney ad litem in the course of his or her duties as an attorney ad litem;
- (32)(A) A sexual abuse advocate or sexual abuse volunteer who works with a victim of sexual abuse as an employee of a community-based victim service or mental health agency such as Safe Places, United Family Services, or Centers for Youth and Families.
- (B) A sexual abuse advocate or sexual abuse volunteer includes a paid or volunteer sexual abuse advocate who is based with a local law enforcement agency;
- (33) A rape crisis advocate or rape crisis volunteer;
- (34)(A) A child abuse advocate or child abuse volunteer who works with a child victim of abuse or maltreatment as an employee of a community-based victim service or a mental health agency such as Safe Places, United Family Services, or Centers for Youth and Families.
- (B) A child abuse advocate or child abuse volunteer includes a paid or volunteer sexual abuse advocate who is based with a local law enforcement agency;
- (35) A victim/witness coordinator;
- (36) A victim assistance professional or victim assistance volunteer; or
- (37) An employee of the Crimes Against Children Division of the Department of Arkansas State Police.

- (c)(1) A privilege or contract shall not prevent a person from reporting child maltreatment when he or she is a mandated reporter and required to report under this section.
- (2) A school, Head Start program, or day care facility shall not prohibit an employee or a volunteer from directly reporting child maltreatment to the Child Abuse Hotline.
- (3) A school, Head Start program, or day care facility shall not require an employee or a volunteer to obtain permission or notify any person, including an employee or a supervisor, before reporting child maltreatment to the Child Abuse Hotline.

## California

### **CAL. HEALTH & SAFETY CODE § 1491 (2011). EXAMINATIONS WITHOUT CHARGE; TESTING FOR VENEREAL DISEASE AND PREGNANCY**

In addition to any examination performed without charge to a victim of rape or other sexual assault pursuant to Section 13823.95 of the Penal Code, a county hospital shall, without charge, provide the victim of rape, or other sexual assault, with testing for venereal disease and pregnancy.

### **CAL. PENAL CODE § 1203.01 (2011). STATEMENT OF VIEWS RESPECTING PERSON CONVICTED OR SENTENCED; REPORTS OF PROBATION OFFICER; TRANSCRIPTS OF PROCEEDINGS; MAILING OF COPIES**

(a) Immediately after judgment has been pronounced, the judge and the district attorney, respectively, may cause to be filed with the clerk of the court a brief statement of their views respecting the person convicted or sentenced and the crime committed, together with any reports the probation officer may have filed relative to the prisoner. The judge and district attorney shall cause those statements to be filed if no probation officer's report has been filed. The attorney for the defendant and the law enforcement agency that investigated the case may likewise file with the clerk of the court statements of their views respecting the defendant and the crime of which he or she was convicted. Immediately after the filing of those statements and reports, the clerk of the court shall mail a copy thereof, certified by that clerk, with postage prepaid, addressed to the Department of Corrections and Rehabilitation at the prison or other institution to which the person convicted is delivered. The clerk shall also mail a copy of any statement submitted by the court, district attorney, or law enforcement agency, pursuant to this section, with postage prepaid, addressed to the attorney for the defendant, if any, and to the defendant, in care of the Department of Corrections and Rehabilitation, and a copy of any statement submitted by the attorney for the defendant, with postage prepaid, shall be mailed to the district attorney.

(b)(1) In all cases in which the judgment imposed includes a sentence of death or an indeterminate term with or without the possibility of parole, the clerk shall, within 60 days after judgment has been pronounced, mail with postage prepaid, to the prison or other institution to which the person convicted is delivered, a copy of the charging documents, a copy of waiver and plea forms, if any, the transcript of the proceedings at the time of the defendant's guilty or nolo contendere plea, if the defendant pleaded guilty or nolo contendere, and the transcript of the proceedings at the time of sentencing.

(2) In all other cases not described in paragraph (1), the clerk shall mail with postage prepaid, to the prison or other institution to which the person convicted is delivered, a copy of the charging documents, a copy of the waiver and plea forms, if any, and upon written request by the Department of Corrections and Rehabilitation or by an inmate, or by his or her counsel, for, among other purposes on a particular case, appeals, review of custody credits and release dates, and restitution orders, the transcript of the proceedings at the time of the defendant's guilty or nolo contendere plea, if the defendant pleaded guilty or nolo contendere, and the transcript of the proceedings at the time of sentencing.

### **CAL. PENAL CODE § 1203.1H (2011). PAYMENT OF MEDICAL EXAMINATION COSTS**

(a) In addition to any other costs which a court is authorized to require a defendant to pay, upon conviction of any offense involving child abuse or neglect, the court may require that the defendant pay to a law enforcement agency incurring the cost, the cost of any medical examinations conducted on the victim in order to determine the nature or extent of the abuse or neglect. If the court determines that the defendant

has the ability to pay all or part of the medical examination costs, the court may set the amount to be reimbursed and order the defendant to pay that sum to the law enforcement agency in the manner in which the court believes reasonable and compatible with the defendant's financial ability. In making a determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

(b) In addition to any other costs which a court is authorized to require a defendant to pay, upon conviction of any offense involving sexual assault or attempted sexual assault, including child molestation, the court may require that the defendant pay, to the law enforcement agency, county, or local governmental agency incurring the cost, the cost of any medical examinations conducted on the victim for the collection and preservation of evidence. If the court determines that the defendant has the ability to pay all or part of the cost of the medical examination, the court may set the amount to be reimbursed and order the defendant to pay that sum to the law enforcement agency, county, or local governmental agency, in the manner in which the court believes reasonable and compatible with the defendant's financial ability. In making the determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution. In no event shall a court penalize an indigent defendant by imposing an additional period of imprisonment in lieu of payment.

#### **CAL. PENAL CODE § 13823.7 (2011). SEXUAL ASSAULT VICTIMS; EXAMINATION AND TREATMENT PROTOCOL; CONTENTS**

The protocol adopted pursuant to Section 13823.5 for the medical treatment of victims of sexual assault, which includes the examination and treatment of victims of sexual assault or attempted sexual assault, including child molestation, and the collection and preservation of evidence therefrom shall include provisions for all of the following:

- (a) Notification of injuries and a report of suspected child sexual abuse to law enforcement authorities.
- (b) Obtaining consent for the examination, for the treatment of injuries, for the collection of evidence, and for the photographing of injuries.
- (c) Taking a patient history of sexual assault and other relevant medical history.
- (d) Performance of the physical examination for evidence of sexual assault.
- (e) Collection of physical evidence of assault.
- (f) Collection of other medical specimens.
- (g) Procedures for the preservation and disposition of physical evidence.

***Proposed Legislation: 2011 California Senate Bill No. 271, California 2011-2012 Regular Session (Feb 14, 2011), VERSION: Introduced, PROPOSED ACTION: Amended***

**CAL. PENAL CODE § 13823.11 (2011). MINIMUM STANDARDS FOR EXAMINATION AND TREATMENT OF VICTIMS OF SEXUAL ASSAULT OR ATTEMPTED SEXUAL ASSAULT**

The minimum standards for the examination and treatment of victims of sexual assault or attempted sexual assault, including child molestation and the collection and preservation of evidence therefrom include all of the following:

(a) Law enforcement authorities shall be notified.

(b) In conducting the physical examination, the outline indicated in the form adopted pursuant to subdivision (c) of Section 13823.5 shall be followed.

(c) Consent for a physical examination, treatment, and collection of evidence shall be obtained.

(1) Consent to an examination for evidence of sexual assault shall be obtained prior to the examination of a victim of sexual assault and shall include separate written documentation of consent to each of the following:

(A) Examination for the presence of injuries sustained as a result of the assault.

(B) Examination for evidence of sexual assault and collection of physical evidence.

(C) Photographs of injuries.

(2) Consent to treatment shall be obtained in accordance with usual hospital policy.

(3) A victim of sexual assault shall be informed that he or she may refuse to consent to an examination for evidence of sexual assault, including the collection of physical evidence, but that a refusal is not a ground for denial of treatment of injuries and for possible pregnancy and sexually transmitted diseases, if the person wishes to obtain treatment and consents thereto.

(4) Pursuant to Chapter 3 (commencing with Section 6920) of Part 4 of Division 11 of the Family Code, a minor may consent to hospital, medical, and surgical care related to a sexual assault without the consent of a parent or guardian.

(5) In cases of known or suspected child abuse, the consent of the parents or legal guardian is not required. In the case of suspected child abuse and nonconsenting parents, the consent of the local agency providing child protective services or the local law enforcement agency shall be obtained. Local procedures regarding obtaining consent for the examination and treatment of, and the collection of evidence from, children from child protective authorities shall be followed.

(d) A history of sexual assault shall be taken.

The history obtained in conjunction with the examination for evidence of sexual assault shall follow the outline of the form established pursuant to subdivision (c) of Section 13823.5 and shall include all of the following:

(1) A history of the circumstances of the assault.

(2) For a child, any previous history of child sexual abuse and an explanation of injuries, if different from that given by parent or person accompanying the child.

(3) Physical injuries reported.

(4) Sexual acts reported, whether or not ejaculation is suspected, and whether or not a condom or lubricant was used.

(5) Record of relevant medical history.

(e)(1) If indicated by the history of contact, a female victim of sexual assault shall be provided with the option of postcoital contraception by a physician or other health care provider.

(2) Postcoital contraception shall be dispensed by a physician or other health care provider upon the request of the victim.



(f) Each adult and minor victim of sexual assault who consents to a medical examination for collection of evidentiary material shall have a physical examination which includes, but is not limited to, all of the following:

- (1) Inspection of the clothing, body, and external genitalia for injuries and foreign materials.
- (2) Examination of the mouth, vagina, cervix, penis, anus, and rectum, as indicated.
- (3) Documentation of injuries and evidence collected.

Prepubertal children shall not have internal vaginal or anal examinations unless absolutely necessary. This does not preclude careful collection of evidence using a swab.

(g) The collection of physical evidence shall conform to the following procedures:

(1) Each victim of sexual assault who consents to an examination for collection of evidence shall have the following items of evidence collected, except where he or she specifically objects:

(A) Clothing worn during the assault.

(B) Foreign materials revealed by an examination of the clothing, body, external genitalia, and pubic hair combings.

(C) Swabs and slides from the mouth, vagina, rectum, and penis, as indicated, to determine the presence or absence of sperm and sperm motility, and for genetic marker typing.

(D) If indicated by the history of contact, the victim's urine and blood sample, for toxicology purposes, to determine if drugs or alcohol were used in connection with the assault. Toxicology results obtained pursuant to this paragraph shall not be admissible in any criminal or civil action or proceeding against any victim who consents to the collection of physical evidence pursuant to this paragraph. Except for purposes of prosecuting or defending the crime or crimes necessitating the examination specified by this section, any toxicology results obtained pursuant to this paragraph shall be kept confidential, may not be further disclosed, and shall not be required to be disclosed by the victim for any purpose not specified in this paragraph. The victim shall specifically be informed of the immunity and confidentiality safeguards provided herein.

(2) Each victim of sexual assault who consents to an examination for the collection of evidence shall have reference specimens taken, except when he or she specifically objects thereto. A reference specimen is a standard from which to obtain baseline information (for example: pubic and head hair, blood, and saliva for genetic marker typing). These specimens shall be taken in accordance with the standards of the local criminalistics laboratory.

(3) A baseline gonorrhea culture, and syphilis serology, shall be taken, if indicated by the history of contact. Specimens for a pregnancy test shall be taken, if indicated by the history of contact.

(4)(A) If indicated by the history of contact, a female victim of sexual assault shall be provided with the option of postcoital contraception by a physician or other health care provider.

(B) Postcoital contraception shall be dispensed by a physician or other health care provider upon the request of the victim.

(h) Preservation and disposition of physical evidence shall conform to the following procedures:

(1) All swabs and slides shall be air-dried prior to packaging.

(2) All items of evidence including laboratory specimens shall be clearly labeled as to the identity of the source and the identity of the person collecting them.

(3) The evidence shall have a form attached which documents its chain of custody and shall be properly sealed.

(4) The evidence shall be turned over to the proper law enforcement agency.

**CAL. PENAL CODE § 13823.13 (2011). SEXUAL ASSAULT VICTIM EXAMINATION AND TREATMENT TRAINING COURSE FOR QUALIFIED HEALTH CARE PROFESSIONALS**

(a) The agency shall develop a course of training for qualified health care professionals relating to the examination and treatment of victims of sexual assault. In developing the curriculum for the course, the agency shall consult with health care professionals and appropriate law enforcement agencies. The agency shall also obtain recommendations from the same health care professionals and appropriate law enforcement agencies on the best means to disseminate the course of training on a statewide basis. The agency is encouraged to designate a course of training for qualified health care professionals, as described in this section, and shall partner with other allied professionals training courses, such as sexual assault investigator training administered by the Peace Officer Standards and Training (POST), sexual assault prosecutor training as administered by the California District Attorneys Association (CDA), or sexual assault advocate training as administered by the California Coalition Against Sexual Assault (CalCASA).

(b) The training course developed pursuant to subdivision (a) shall be designed to train qualified health care professionals to do all of the following:

(1) Perform a health assessment of victims of sexual assault in accordance with any applicable minimum standards set forth in Section 13823.11.

(2) Collect and document physical and laboratory evidence in accordance with any applicable minimum standards set forth in Section 13823.11.

(3) Provide information and referrals to victims of sexual assault to enhance the continuity of care of victims.

(4) Present testimony in court.

(c) As used in this section, “qualified health care professional” means a physician and surgeon currently licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or a nurse currently licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who works in consultation with a physician and surgeon or who conducts examinations described in Section 13823.9 in a general acute care hospital or in the office of a physician and surgeon, a nurse practitioner currently licensed pursuant to Chapter 61 (commencing with Section 2834) of Division 2 of the Business and Professions Code, or a physician assistant licensed pursuant to Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code.

(d) As used in this section, “appropriate law enforcement agencies” may include, but shall not be limited to, the Attorney General of the State of California, any district attorney, and any agency of the State of California expressly authorized by statute to investigate or prosecute law violators.

**CAL. PENAL CODE § 13823.95 (2011). SEXUAL ASSAULT VICTIMS; MEDICAL EVIDENTIARY EXAMINATIONS; COSTS**

(a) No costs incurred by a qualified health care professional, hospital, or other emergency medical facility for the medical evidentiary examination portion of the examination of the victim of a sexual assault, as described in the protocol developed pursuant to Section 13823.5, when the examination is performed, pursuant to Sections 13823.5 and 13823.7, shall be charged directly or indirectly to the victim of the assault.

(b) Any victim of a sexual assault who seeks a medical evidentiary examination, as that term is used in Section 13823.93, shall be provided with a medical evidentiary examination. No victim of a sexual assault shall be required to participate or to agree to participate in the criminal justice system, either prior to the examination, or at any other time.

(c) The cost of a medical evidentiary examination performed by a qualified health care professional, hospital, or other emergency medical facility for a victim of a sexual assault shall be treated as a local cost and charged to the local law enforcement agency in whose jurisdiction the alleged offense was committed, provided however, that the local law enforcement agency may seek reimbursement, as provided in subdivision (d), for the cost of conducting the medical evidentiary examination portion of a medical examination of a sexual assault victim who does not participate in the criminal justice system.

(d) The amount that may be charged by a qualified health care professional, hospital, or other emergency medical facility to perform the medical evidentiary examination portion of a medical examination of a victim of a sexual assault shall not exceed three hundred dollars (\$300). The California Emergency Management Agency shall use the discretionary funds from federal grants awarded to the agency pursuant to the federal Violence Against Women and Department of Justice Reorganization Act of 2005 through the federal Office of Violence Against Women, specifically, the STOP (Services, Training, Officers, and Prosecutors) Violence Against Women Formula Grant Program to cover the cost of the medical evidentiary examination portion of a medical examination of a sexual assault victim. The agency is authorized to use grant funds to pay for medical evidentiary examinations until January 1, 2014.

## Colorado

### **COL. REV. STAT. ANN. § 18-3-407.5 (2011). VICTIM EVIDENCE--FORENSIC EVIDENCE--ELECTRONIC LIE DETECTOR EXAM WITHOUT VICTIM'S CONSENT PROHIBITED**

(1) Any direct cost associated with the collection of forensic evidence from the victim shall be paid by the referring or requesting law enforcement agency.

(2) A law enforcement agency, prosecuting officer, or other government official may not ask or require a victim of a sexual offense to submit to a polygraph examination or any form of a mechanical or electrical lie detector examination as a condition for proceeding with any criminal investigation or prosecution of an offense. A law enforcement agency shall conduct the examination only with the victim's written informed consent. Consent shall not be considered informed unless the law enforcement agency informs the victim in writing of the victim's right to refuse to submit to the examination. In addition, the law enforcement agency shall orally provide to the victim information about the potential uses of the results of the examination.

(3)(a) A law enforcement agency, prosecuting officer, or other government official may not ask or require a victim of a sexual offense to participate in the criminal justice system process or cooperate with the law enforcement agency, prosecuting officer, or other government official as a condition of receiving a forensic medical examination that includes the collection of evidence.

(b) A victim of a sexual offense shall not bear the cost of a forensic medical examination that includes the collection of evidence that is used for the purpose of evidence collection even if the victim does not want to participate in the criminal justice system or otherwise cooperate with the law enforcement agency, prosecuting officer, or other government official. The division of criminal justice in the department of public safety shall pay the cost of the examination.

(c) When personnel at a medical facility perform a forensic medical examination that includes the collection of evidence based on the request of a victim of a sexual offense, not in connection with a referring or requesting law enforcement agency, and the medical facility performing the examination knows where the crime occurred, the facility shall contact the law enforcement agency in whose jurisdiction the crime occurred regarding preservation of the evidence. If the medical facility does not know where the crime occurred, the facility shall contact its local law enforcement agency regarding preservation of the evidence. Notwithstanding any other statutory requirements regarding storage of biological evidence, the law enforcement agency contacted by the medical facility shall retrieve the evidence from the facility and store it for at least two years.

**COL. REV. STAT. ANN. § 12-36-135 (2011). INJURIES TO BE REPORTED--PENALTY FOR FAILURE TO REPORT--IMMUNITY FROM LIABILITY**

(1)(a) It shall be the duty of every licensee who attends or treats a bullet wound, a gunshot wound, a powder burn, or any other injury arising from the discharge of a firearm, or an injury caused by a knife, an ice pick, or any other sharp or pointed instrument that the licensee believes to have been intentionally inflicted upon a person, or an injury arising from a dog bite that the licensee believes was inflicted upon a person by a dangerous dog, as defined in section 18-9-204.5(2)(b), C.R.S., or any other injury that the licensee has reason to believe involves a criminal act, including injuries resulting from domestic violence, to report the injury at once to the police of the city, town, or city and county or the sheriff of the county in which the licensee is located. Any licensee who fails to make a report as required by this section commits a class 2 petty offense, as defined by section 18-1.3-503, C.R.S., and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

(b) When a licensee performs a forensic medical examination that includes the collection of evidence at the request of a victim of sexual assault, not in connection with a referring or requesting law enforcement agency, and the licensee's employing medical facility knows where the crime occurred, the facility shall contact the law enforcement agency in whose jurisdiction the crime occurred regarding preservation of the evidence. If the medical facility does not know where the crime occurred, the facility shall contact its local law enforcement agency regarding preservation of the evidence.

(1.5) As used in subsection (1) of this section, unless the context otherwise requires:

(a) "Domestic violence" means an act of violence upon a person with whom the actor is or has been involved in an intimate relationship. Domestic violence also includes any other crime against a person or any municipal ordinance violation against a person when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.

(b) "Intimate relationship" means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time.

(2) Any licensee who, in good faith, makes a report pursuant to subsection (1) of this section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making of such report, and shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

(3) Any licensee who makes a report pursuant to subsection (1) of this section shall not be subject to the physician-patient relationship described in section 13-90-107(1)(d), C.R.S., as to the medical examination

and diagnosis. Such licensee may be examined as a witness, but not as to any statements made by the patient that are the subject matter of section 13-90-107(1)(d), C.R.S.

*REPEAL*

<For repeal of this section, see § 12-36-103.>

## Connecticut

### **CONN. GEN. STAT. ANN. § 19A-112A (2011). COMMISSION ON THE STANDARDIZATION OF THE COLLECTION OF EVIDENCE IN SEXUAL ASSAULT INVESTIGATIONS. PROTOCOL. SEXUAL ASSAULT EVIDENCE COLLECTION KIT. PRESERVATION OF EVIDENCE. COSTS. TRAINING AND SEXUAL ASSAULT EXAMINER PROGRAMS**

(a) There is created a Commission on the Standardization of the Collection of Evidence in Sexual Assault Investigations composed of fourteen members as follows: The Chief State's Attorney or a designee; the executive director of the Permanent Commission on the Status of Women or a designee; the Commissioner of Children and Families or a designee; one member from the Division of State Police and one member from the Division of Scientific Services appointed by the Commissioner of Emergency Services and Public Protection; one member from Connecticut Sexual Assault Crisis Services, Inc. appointed by its board of directors; one member from the Connecticut Hospital Association appointed by the president of the association; one emergency physician appointed by the president of the Connecticut College of Emergency Physicians; one obstetrician-gynecologist and one pediatrician appointed by the president of the Connecticut State Medical Society; one nurse appointed by the president of the Connecticut Nurses' Association; one emergency nurse appointed by the president of the Emergency Nurses' Association of Connecticut; and one police chief appointed by the president of the Connecticut Police Chiefs Association. The Chief State's Attorney or a designee shall be chairman of the commission. The commission shall be within the Division of Criminal Justice for administrative purposes only.

(b) (1) For the purposes of this section, "protocol" means the state of Connecticut Technical Guidelines for Health Care Response to Victims of Sexual Assault, including the Interim Sexual Assault Toxicology Screen Protocol, as revised from time to time and as incorporated in regulations adopted in accordance with subdivision (2) of this subsection, pertaining to the collection of evidence in any sexual assault investigation. (2) The commission shall recommend the protocol to the Chief State's Attorney for adoption as regulations in accordance with the provisions of chapter 54. [FN1] Such protocol shall include nonoccupational post-exposure prophylaxis for human immunodeficiency virus (nPEP), as recommended by the National Centers for Disease Control. The commission shall annually review the protocol and may annually recommend changes to the protocol for adoption as regulations.

(c) The commission shall design a sexual assault evidence collection kit and may annually recommend changes in the kit to the Chief State's Attorney. Each kit shall include instructions on the proper use of the kit, standardized reporting forms, standardized tests which shall be performed if the victim so consents and standardized receptacles for the collection and preservation of evidence. The commission shall provide the kits to all health care facilities in the state at which evidence collection examinations are performed at no cost to such health care facilities.

(d) Each health care facility in the state which provides for the collection of sexual assault evidence shall follow the protocol as described in subsection (b) of this section and, with the consent of the victim, shall collect sexual assault evidence. The health care facility shall contact a police department which shall transfer evidence collected pursuant to subsection (b) of this section, in a manner that maintains the integrity of the evidence, to the Division of Scientific Services within the Department of Emergency Services and Public Protection or the Federal Bureau of Investigation laboratory. The agency that receives such evidence shall hold that evidence for sixty days after such collection, except that, if the victim reports the sexual assault to the police, the evidence shall be analyzed upon request of the police department that transferred the evidence to such agency and held by the agency or police department until the conclusion of any criminal proceedings.

(e)(1) No costs incurred by a health care facility for the examination of a victim of sexual assault, when such examination is performed for the purpose of gathering evidence as prescribed in the protocol, including the costs of testing for pregnancy and sexually transmitted diseases and the costs of prophylactic treatment as provided in the protocol, shall be charged directly or indirectly to such victim. Any such costs shall be charged to the Office of Victim Services within the Judicial Department.

(2) No costs incurred by a health care facility for any toxicology screening of a victim of sexual assault, when such screening is performed as prescribed in the protocol, shall be charged directly or indirectly to such victim. Any such costs shall be charged to the Division of Scientific Services within the Department of Emergency Services and Public Protection.

(f) The commission shall advise the Chief State's Attorney on the establishment of a mandatory training program for health care facility staff regarding the implementation of the regulations, the use of the evidence collection kit and procedures for handling evidence.

(g) The commission shall advise the Chief State's Attorney not later than July 1, 1997, on the development of a sexual assault examiner program and annually thereafter on the implementation and effectiveness of such program.

### **CONN. GEN. STAT. ANN. § 19A-112D (2011). SEXUAL ASSAULT VICTIMS ACCOUNT**

There is established a sexual assault victims account which shall be a separate, nonlapsing account within the General Fund. The account shall contain the moneys authorized pursuant to section 54-143c, and any other moneys required by law to be deposited in the account, and shall be held in trust separate and apart from all other moneys, funds and accounts. Any balance remaining in the account at the end of any fiscal year shall be carried forward in the account for the fiscal year next succeeding. Investment earnings credited to the account shall become part of the account. Amounts in the account shall be expended only pursuant to appropriations by the General Assembly, for the fiscal year ending June 30, 2006, and each fiscal year thereafter, for the purpose of providing funds to the Department of Public Health for sexual assault crisis services furnished to victims of sexual assault in this state, provided such amounts so expended shall not supplant any state or federal funds otherwise available for such services.

### **CONN. GEN. STAT. ANN. § 19A-112E (2011). PROVISION OF EMERGENCY TREATMENT TO A VICTIM OF SEXUAL ASSAULT. STANDARD OF CARE**

(a) As used in this section:

(1) "Emergency contraception" means one or more prescription drugs used separately or in combination administered to or self-administered by a patient to prevent pregnancy, within a medically recommended

amount of time after sexual intercourse and provided for that purpose, in accordance with professional standards of practice, and determined to be safe by the United States Food and Drug Administration.

(2) "Emergency treatment" means any medical examination or treatment provided in a licensed health care facility to a victim of sexual assault following an alleged sexual assault.

(3) "Medically and factually accurate and objective" means verified or supported by the weight of research conducted in compliance with accepted scientific methods and published in peer-reviewed journals, where applicable.

(4) "Victim of sexual assault" means any female person who alleges or is alleged to have suffered an injury as a result of a sexual offense.

(5) "Sexual offense" means a violation of subsection (a) of section 53a-70, section 53a-70a or 53a-70b, subsection (a) of section 53a-71, section 53a-72a or 53a-72b, subdivision (2) of subsection (a) of section 53a-86, subdivision (2) of subsection (a) of section 53a-87 or section 53a-90a, 53a-196a or 53a-196b.

(6) "Independent provider" means a physician licensed under chapter 370, [FN1] a physician assistant licensed under chapter 370, an advanced practice registered nurse or registered nurse licensed under chapter 378, [FN2] or a nurse-midwife licensed under chapter 377, [FN3] all of whom are trained to conduct a forensic exam in accordance with the state of Connecticut Technical Guidelines for Health Care Response to Victims of Sexual Assault, published by the Commission on the Standardization of the Collection of Evidence in Sexual Assault Investigations pursuant to section 19a-112a.

(b) The standard of care for each licensed health care facility that provides emergency treatment to a victim of sexual assault shall include promptly:

(1) Providing each victim of sexual assault with medically and factually accurate and objective information relating to emergency contraception;

(2) Informing such victim of sexual assault of the availability of emergency contraception, its use and efficacy; and

(3) Providing emergency contraception to such victim of sexual assault at the facility upon the request of such victim, except that a licensed health care facility shall not be required to provide emergency contraception to a victim of sexual assault who has been determined to be pregnant through the administration of a pregnancy test approved by the United States Food and Drug Administration.

(c) In order to comply with the standard of care requirements prescribed in subsection (b) of this section, a licensed health care facility may contract with one or more independent providers to:

(1) Ensure compliance at the facility with the standard of care requirements prescribed in said subsection (b), and

(2) conduct at the facility a forensic exam of the sexual assault victim in accordance with the state of Connecticut Technical Guidelines for Health Care Response to Victims of Sexual Assault, published by the Commission on the Standardization of the Collection of Evidence in Sexual Assault Investigations pursuant to section 19a-112a.

(d) No licensed health care facility that provides emergency treatment to a victim of sexual assault shall determine such facility's protocol for complying with the standard of care requirements prescribed in subsection (b) of this section on any basis other than a pregnancy test approved by the United States Food and Drug Administration.

## Delaware

### **DEL. CODE ANN. TIT. 11, § 9023 (2011). PAYMENT FOR FORENSIC MEDICAL EXAMINATIONS FOR VICTIMS OF SEXUAL OFFENSE**

(a) The cost of a forensic medical examination done for the purpose of gathering evidence that can be used in the prosecution of a sexual offense may be paid from the Victim Compensation Fund.

(b) "Forensic medical examination" shall be defined as medical diagnostic procedures examining for physical trauma, and determining penetration, force or lack of consent. The cost of the examination shall include collecting all evidence as called for in the sexual offense evidence collection kits and may include any of the following, if done as part of the forensic medical examination:

- (1) Physician's fees for the collection of the patient history, physical, collection of specimens and treatment for the prevention of venereal disease, including 1 return follow-up visit;
- (2) Emergency department expenses, including emergency room fees and cost of pelvic tray; and
- (3) Laboratory expenses for wet mount for sperm, swabs for acid phosphates and ABH antigen; blood typing, serology for syphilis and Hepatitis B; cultures for gonorrhea, chlamydia, trichomonas and other sexually transmitted diseases; pregnancy testing; urinalysis; and any other laboratory test needed to collect evidence that could be used in the prosecution of the offense.

(c) Hospitals and health care professions shall provide forensic medical examinations free of charge to the victims of sexual offenses. Any hospital or health care professional performing a forensic medical examination shall seek reimbursement for the examination from the patient's insurance carrier, including Medicaid and Medicare, if available. If insurance is unavailable, or does not cover the full costs of the forensic medical examination, the service provider may seek reimbursement from the Compensation Fund. The Agency shall authorize the repayment for reasonable expenses incurred during the forensic medical examination. Such reimbursement shall not exceed a maximum amount to be determined by the Agency. If the hospital or health care professional has recovered from insurance, the Agency shall only provide compensation sufficient to total the maximum amount provided for in the Agency's rules and regulations.

(d) The victim of the sexual offense shall not pay any out-of-pocket costs associated with the forensic medical examination and shall not be required to file an application with the Agency. Notwithstanding other language in this chapter, all forensic medical examinations of victims of a sexual offense not covered by insurance shall be paid for through the Victim Compensation Fund and such payment shall be considered full compensation to the hospital or health care professional providing such services.

(e) In addition to, and at the same time as, any other fine or penalty assessed on any criminal defendant, all defendants convicted of a sexual offense as defined in § 761 of this title shall be assessed an additional fine that shall be used to reimburse the Victim Compensation Fund for forensic medical examination payments. All defendants convicted of sexual offenses shall pay \$50 for each misdemeanor level count for which they are convicted and \$100 for each felony level count for which they are convicted. All fines paid in accordance with this section shall be deposited into the Victims' Compensation Fund.

(f) Nothing in this section shall preclude victims from applying to the Agency for other costs incurred.

### **DEL. CODE REGS. § 301-28.0 (2011). PAYMENT OF CLAIMS**

28.1 Medical expenses shall be paid on behalf of the victim to a hospital or other licensed health care facility or provider at a rate set by VCAP. If VCAP accepts a claim, the hospital or other licensed health care facility



or provider shall accept the VCAP payment as payment in full, and may not attempt to collect from the victim or third parties any amount exceeding the amount of reimbursement made by VCAP. In the absence of an existing provider agreement, VCAP payments may be accompanied by a notice that provider acceptance constitutes acknowledgement of payment in full.

28.2 VCAP will pay a hospital or other licensed health care facility or provider at the rate of 80% of the usual and customary charge for such services. The VCAP may pay a lesser amount if payment under this section would exceed a statutory or regulatory cap.

28.3 If the usual and customary charge cannot readily be established, or in special circumstances, VCAP may, in its discretion, determine the reasonable charge for the procedure performed or the services rendered.

## **District of Columbia**

### **D.C. CODE § 4-506 (2012). ELIGIBILITY FOR COMPENSATION.**

(a) A victim or secondary victim is eligible to receive compensation under this chapter if he or she:

- (1) Suffered personal injury as a result of a crime;
- (2) Filed a claim under this chapter within 1 year after the crime occurred or 1 year after learning of the Program with an adequate showing that the delay in learning of the Program was reasonable; and
- (3) Reported the crime to a law enforcement office within 7 days of its occurrence. If the crime cannot be reasonably reported within that time period, the crime must be reported within 7 days from the time a report can reasonably be made.

(b) The offender shall not be unjustly enriched by an award of compensation to the claimant, except that this requirement may be waived in cases involving extraordinary circumstances where the interests of justice so require.

(c) Notwithstanding subsection (a)(3) of this section, a victim who has been sexually abused or subjected to unlawful sexual conduct, domestic violence, or cruelty to children and who does not report the crime to the local police department, may:

- (1) In the case of domestic violence victims, satisfy the reporting requirement by seeking a civil protection order from the Corporation Counsel of the District of Columbia;
- (2) In the case of sexual assault victims, satisfy the reporting requirement by seeking a sexual assault examination from a medical treatment facility; and
- (3) In the case of a victim of cruelty to children, satisfy the reporting requirement by the filing of a neglect petition by the District of Columbia in the Superior Court.

(d) The time limit requirements of this section may be waived for good cause shown, including compelling health or safety concerns.

### **D.C. CODE § 4-507 (2012). AWARDS OF COMPENSATION.**

(a) The Court shall award compensation in an amount equal to the claimant's economic loss, decreased by the amount available to the claimant from collateral sources.

(b) The Court shall not award compensation in an amount exceeding \$25,000 per victimization.

(c) The Court shall calculate awards in a fair and equitable manner.

(d) The payment of compensation may provide for apportionment, the holding of the compensation or any part thereof in trust, payment in a lump sum or periodic installments, or payment directly to the provider of medical services or economic loss expenses.

(e) An award is not subject to enforcement, attachment, or garnishment, except that an award may be subject to a claim of a creditor if the cost of products, services, or accommodations included in the award were covered by the creditor.

(f) If a claimant is awarded compensation prior to the sentencing of an offender convicted of the crime which was the subject of the claim, the Court shall notify the sentencing judge of the amount of the award, notwithstanding that the files and records of the claim remain otherwise confidential as provided in § 4-511. Restitution ordered for an offense that was the basis for an award under this chapter, up to the amount of the award, shall be payable directly to the Fund as provided in § 4-509.

(g) Eligibility for public benefits shall not be affected by the receipt of crime victims compensation funds.

### **D.C. CODE § 7-2123 (2012). ACCESS TO EMERGENCY CARE FOR VICTIMS OF SEXUAL ASSAULT**

All hospitals that provide emergency care to victims of sexual assault shall:

(1) Provide each victim of sexual assault written information developed pursuant to § 7-2122;

(2) Provide each victim of sexual assault an oral explanation of the written information distributed pursuant to paragraph (1) of this section;

(3) Orally inform each victim of sexual assault in a language he or she understands of the option to be provided by the hospital prophylactic antibiotics for the treatment of sexually transmitted diseases and emergency contraception for the prevention of pregnancy; and

(4) Consistent with accepted medical practice and protocols, immediately provide prophylactic antibiotics for the treatment of sexually transmitted diseases and emergency contraception for the prevention of pregnancy to each victim of sexual assault, if the victim requests it and if the requested treatment is not medically contraindicated.

## **Florida**

### **FLA. STAT. ANN. § 960.28 (2011). PAYMENT FOR VICTIMS' INITIAL FORENSIC PHYSICAL EXAMINATIONS**

(1) A medical provider who performs an initial forensic physical examination may not bill a victim or the victim's parent or guardian if the victim is a minor directly or indirectly for that examination.

(2) The Crime Victims' Services Office of the department shall pay for medical expenses connected with an initial forensic physical examination of a victim of sexual battery as defined in chapter 794 or a lewd or lascivious offense as defined in chapter 800. Such payment shall be made regardless of whether the victim is covered by health or disability insurance and whether the victim participates in the criminal justice system

or cooperates with law enforcement. The payment shall be made only out of moneys allocated to the Crime Victims' Services Office for the purposes of this section, and the payment may not exceed \$500 with respect to any violation. The department shall develop and maintain separate protocols for the initial forensic physical examination of adults and children. Payment under this section is limited to medical expenses connected with the initial forensic physical examination, and payment may be made to a medical provider using an examiner qualified under part I of chapter 464, excluding s. 464.003(16); chapter 458; or chapter 459. Payment made to the medical provider by the department shall be considered by the provider as payment in full for the initial forensic physical examination associated with the collection of evidence. The victim may not be required to pay, directly or indirectly, the cost of an initial forensic physical examination performed in accordance with this section.

(3) The department may allow, deny, controvert, or litigate claims made against it under this section.

(4) Information received or maintained by the department identifying an alleged victim who seeks payment of medical expenses under this section is confidential and exempt from the provisions of s. 119.07(1).

(5) A defendant or juvenile offender who pleads guilty or nolo contendere to, or is convicted of or adjudicated delinquent for, a violation of chapter 794 or chapter 800 shall be ordered by the court to make restitution to the Crimes Compensation Trust Fund in an amount equal to the compensation paid to the medical provider by the Crime Victims' Services Office for the cost of the initial forensic physical examination. The order may be enforced by the department in the same manner as a judgment in a civil action.

***Proposed legislation: 2010 Florida Senate Bill No. 2530, Florida One Hundred Twelfth Regular Session (FULL TEXT - NETSCAN) (Apr 13, 2010), VERSION: Amended/Substituted, PROPOSED ACTION: Amended***

**FLA. ADMIN. CODE ANN. R. 2A-3.002 (2011). APPLICANT AND PAYMENT PROCEDURES.**

(1) Application for payment of the initial forensic sexual assault examination shall include the following:

- (a) Patient Information: Name, date of birth, and gender of the individual being examined,
- (b) Forensic Facility Information: Name of facility, federal identification number, mailing address and telephone number,
- (c) Date of the offense (if known), and
- (d) Date of the examination.

(2) The examination must be administered by a person authorized in Section 960.28(2), F.S., for whom the following must be provided:

- (a) Typed or legible printed name of the forensic examiner,
- (b) Examiner's title and license number,
- (c) Examiner's signature, and
- (d) Date of signature.

(3) The application must be witnessed (signed and dated) by another individual employed with the facility as verification the examination was performed. The witness' name should be typed or printed below their signature.

(4) Application for payment must be accompanied by an itemized bill (CMS, HCFA, or UB health insurance form or other standardized invoice). The itemized bill must include the following:

- (a) Name of the facility used for the examination,
- (b) Date of the examination,
- (d) [FN1] Patient's name, and
- (e) Examination code V71.5 and any of the CPT codes noted below.

(5) Payment for the examination is limited to the International Classification of Disease (ICD-9) code for examination of the victim of sexual battery (V71.5), and some or all of the following:

- (a) Physician/ARNP office or other outpatient services; emergency department services - CPT codes 99201, 99202, 99203, 99204, 99205, 99211, 99212, 99213, 99214, 99215, 99281, 99282, 99283, 99284, 99285,
- (b) Venipuncture for the collection of whole blood samples - CPT codes 36406, 36415,
- (c) Laboratory tests for baseline sexually transmitted disease and pregnancy - CPT codes, 81025, 84702, 84703, 86280, 86317, 86592, 86593, 86631, 86781, 87070, 87081, 87110,
- (d) Use of medical facility for the initial forensic physical evidence collection examination - CMS/HCFA Revenue Code 450 or 510, and
- (e) Forensic evidence collection kit - CMS/HCGA Revenue Code 270.

(6) Applications must be mailed to the Office of the Attorney General, Bureau of Victim Compensation, PL-01, The Capitol, Tallahassee, Florida 32399-1050 or faxed to (850) 487-1595, (850) 487-2625 or (850) 414-5779 within 120 days after the date of the initial forensic physical examination.

(7) Corrections or technical defects in an application shall not result in a change to the original filing date for purposes of complying with the filing deadline.

(8) A victim shall not be required to file a claim for the initial physical examination with a health or disability insurance carrier.

## **FLA. STAT. ANN. § 395.1021 (2011). TREATMENT OF SEXUAL ASSAULT VICTIMS**

Any licensed facility which provides emergency room services shall arrange for the rendering of appropriate medical attention and treatment of victims of sexual assault through:

- (1) Such gynecological, psychological, and medical services as are needed by the victim.
- (2) The gathering of forensic medical evidence required for investigation and prosecution from a victim who has reported a sexual battery to a law enforcement agency or who requests that such evidence be gathered for a possible future report.
- (3) The training of medical support personnel competent to provide the medical services and treatment as described in subsections (1) and (2).

Such licensed facility shall also arrange for the protection of the victim's anonymity while complying with the laws of this state and may encourage the victim to notify law enforcement personnel and to cooperate with them in apprehending the suspect.

## **Georgia**

### **GA. CODE ANN., § 17-5-72 (2011). FORENSIC MEDICAL EXAMINATIONS**

A victim shall have the right to have a forensic medical examination regardless of whether the victim participates in the criminal justice system or cooperates with law enforcement in pursuing prosecution of the underlying crime. A victim shall not be required to pay, directly or indirectly, for the cost of a forensic

medical examination. The cost of a forensic medical examination shall be paid for by the Georgia Crime Victims Emergency Fund, as provided for in Chapter 15 of this title.

### **GA. CODE ANN., § 17-15-15 (2011). MEDICAL EXAMINATION COSTS**

When a forensic medical examination is conducted, the cost of such examination shall be paid for by the fund in an amount not to exceed \$1,000.00. The fund shall be responsible for payment of such cost notwithstanding whether the person receiving such examination has health insurance or any other source of health care coverage.

### **GA. CODE ANN., § 16-6-1 (2011). RAPE**

(a) A person commits the offense of rape when he has carnal knowledge of:

- (1) A female forcibly and against her will; or
- (2) A female who is less than ten years of age.

Carnal knowledge in rape occurs when there is any penetration of the female sex organ by the male sex organ. The fact that the person allegedly raped is the wife of the defendant shall not be a defense to a charge of rape.

(b) A person convicted of the offense of rape shall be punished by death, by imprisonment for life without parole, by imprisonment for life, or by a split sentence that is a term of imprisonment for not less than 25 years and not exceeding life imprisonment, followed by probation for life. Any person convicted under this Code section shall, in addition, be subject to the sentencing and punishment provisions of Code Sections 17-10-6.1 and 17-10-7.

(c) When evidence relating to an allegation of rape is collected in the course of a medical examination of the person who is the victim of the alleged crime, the Georgia Crime Victims Emergency Fund, as provided for in Chapter 15 of Title 17, shall be responsible for the cost of the medical examination to the extent that expense is incurred for the limited purpose of collecting evidence.

## **Guam**

### **8 GUAM CODE ANN. § 120.60 (2012). MEDICAL EXAMINATIONS OF THOSE CONVICTED OF CRIMINAL SEXUAL ABUSE AND SERVICES TO VICTIMS OF CRIMINAL SEXUAL CONDUCT**

(a) Any person convicted of criminal sexual conduct shall submit to the necessary medical examinations for determining whether such convicted person is infected with the Human Immunodeficiency Virus ('HIV') or with any other sexually transmitted disease such as, but not limited to, the examination of such convicted person's blood, urine, genital discharge or lesions. The Department of Public Health and Social Services shall administer and analyze such necessary medical examinations in accordance with standard medical procedures, and the results of such examinations shall be furnished to the victim of such conduct and to the convicted person.

(b) The Department of Public Health and Social Services with the assistance of the Sexual Abuse and Rape Crisis Center shall provide services to victims of criminal sexual conduct. Such services to the victim shall be free of charge, and shall include, but are not limited to:

(1) Pre and post HIV testing, counseling on HIV prevention and other sexually transmitted diseases (STD), and ensuring that the victim understands the implications of HIV and STD testing, their benefits and results of the test(s); HIV or any other sexually transmitted disease testing in accordance with standard medical procedures and applicable law; and

(2) Providing referrals for appropriate health care and support services.

Such treatment shall not be construed to interfere with or diminish any medical support already provided by any health insurer, agency or office; nor shall provision of the services or treatment required by this Section relieve any health insurer of its duty to provide coverage.

## Hawaii

### **HAW. REV. STAT. § 351-15 (2011). MEDICAL EXAMINATION**

The commission may appoint an impartial licensed physician or licensed psychologist to examine any person making application under this chapter, and the fees for the examination shall be paid from funds appropriated for expenses of administration.

## Idaho

### **IDAHO CODE ANN. § 19-5303 (2011). COST OF MEDICAL EXAMS TO BE PAID BY LAW ENFORCEMENT AGENCY**

When the victim of any crime is directed or authorized by a law enforcement agency to obtain a medical examination for the purpose of procuring evidence for use by a law enforcement agency in the investigation or prosecution of the crime, the expense incurred shall be paid by the law enforcement agency. Provided however, the cost of forensic and/or medical examinations of alleged victims of sexual assault shall be paid for from the crime victims compensation account, as established by section 72-1009, Idaho Code. The provisions of this section shall not be construed to require a law enforcement agency to bear the expense of any medical treatment of the victim.

### **IDAHO CODE ANN. § 72-1019 (2011). COMPENSATION BENEFITS**

(1) A claimant is entitled to weekly compensation benefits when the claimant has a total actual loss of wages due to injury as a result of criminally injurious conduct. During the time the claimant seeks such weekly benefits, the claimant, as a result of such injury, must have no reasonable prospect of being regularly employed in the normal labor market. The weekly benefit amount is sixty-six and two-thirds percent (66 2/3 %) of the wages received at the time of the criminally injurious conduct, subject to a maximum of one hundred seventy-five dollars (\$175). Weekly compensation payments shall be made at the end of each two (2) week period. No weekly compensation payments may be paid for the first week after the criminally injurious conduct occurred, but if total actual loss of wages continues for one (1) week, weekly compensation payments shall be paid from the date the wage loss began. Weekly compensation payments

shall continue until the claimant has a reasonable prospect of being regularly employed in the normal labor market.

(2) The commission may order payment of reasonable expenses actually incurred by the claimant for reasonable services by a physician or surgeon, reasonable hospital services and medicines, mental health counseling and care, and such other treatment as may be approved by the commission for the injuries suffered due to criminally injurious conduct. Payment for the costs of forensic and medical examinations of alleged victims of sexual assault performed for the purposes of gathering evidence for possible prosecution, after collections from any third party who has liability, shall be made by the commission. The commission shall establish a procedure for summary processing of such claims.

(3)(a) The dependents of a victim who is killed as a result of criminally injurious conduct are entitled to receive aggregate weekly benefits amounting to sixty-six and two-thirds percent (66 2/3 %) of the wages received at the time of the criminally injurious conduct causing the death, subject to a maximum of one hundred seventy-five dollars (\$175) per week. Weekly compensation payments shall be made at the end of each two (2) week period.

(b) Benefits under subsection (3)(a) of this section shall be paid to the spouse for the benefit of the spouse and other dependents unless the commission determines that other payment arrangements should be made. If a spouse dies or remarries, benefits under subsection (3)(a) shall cease to be paid to the spouse but shall continue to be paid to the other dependents so long as their dependent status continues.

(4) Reasonable funeral and burial or cremation expenses of the victim, together with actual expenses of transportation of the victim's body, shall be paid in an amount not exceeding five thousand dollars (\$5,000) if all other collateral sources have properly paid such expenses but have not covered all such expenses.

(5)(a) Compensation payable to a victim and all of the victim's dependents in cases of the victim's death, because of injuries suffered due to an act or acts of criminally injurious conduct involving the same offender and occurring within a six (6) month period, may not exceed twenty-five thousand dollars (\$25,000) in the aggregate.

(b) The limitation of subsection (5)(a) of this section is subject to the further limitation that payments for mental health treatment received as a result of the victim's injury may not exceed two thousand five hundred dollars (\$2,500) unless the industrial commission finds extenuating circumstances. If the commission finds a victim to have extenuating circumstances as defined in section 72-1003, Idaho Code, the victim is eligible for payments up to the maximum benefit allowed under paragraph (a) of this subsection (5). The commission shall reevaluate the victim's qualifications for extenuating circumstances not less often than annually.

(6) Compensation benefits are not payable for pain and suffering or property damage.

(7)(a) A person who has suffered injury as a result of criminally injurious conduct and as a result of such injury has no reasonable prospect of being regularly employed in the normal labor market, who was employable but was not employed at the time of such injury, may in the discretion of the commission be awarded weekly compensation benefits in an amount determined by the commission not to exceed one hundred fifty dollars (\$150) per week. Weekly compensation payments shall continue until the claimant has a reasonable prospect of being regularly employed in the normal labor market or for a shorter period as determined by the commission. The claimant shall be awarded benefits as provided in subsection (2) of this section.

(b) The dependents of a victim who is killed as a result of criminally injurious conduct and who was employable but not employed at the time of death, may, in the discretion of the commission, be awarded, in an aggregate amount payable to all dependents, a sum not to exceed one hundred fifty dollars (\$150) per

week which shall be payable in the manner and for the period provided by subsection (3)(b) of this section or for such shorter period as determined by the commission. The claimant shall be awarded benefits as provided in subsection (4) of this section.

(c) Compensation payable to a victim or a victim's dependents under this subsection may not exceed twenty thousand dollars (\$20,000), and the limitations of subsection (6) of this section apply to compensation under this subsection (7).

(8) Amounts payable as weekly compensation may not be commuted to a lump sum and may not be paid less frequently than every two (2) weeks.

(9)(a) Subject to the limitations in subsections (9)(b) and (9)(c) of this section, the spouse, parent, grandparent, child, grandchild, brother or sister of a victim who is killed, kidnapped, sexually assaulted or subjected to domestic violence or child injury is entitled to reimbursement for mental health treatment received as a result of such criminally injurious conduct.

(b) Total payments made under subsection (9)(a) of this section, may not exceed five hundred dollars (\$500) for each person or one thousand five hundred dollars (\$1,500) for a family.

(c) With regard to claims filed pursuant to this section, in order for family members of victims of crime to be entitled to benefits, the victim of the crime must also have been awarded benefits for the crime itself.

(10) A claimant or a spouse, parent, child or sibling of a claimant or victim may be reimbursed for his or her expenses for necessary travel incurred in connection with obtaining benefits covered pursuant to this chapter and in accordance with rules of the commission.

## Illinois

### **215 ILL. COMP. STAT. 125/4-4 (2011). SEXUAL ASSAULT OR ABUSE VICTIMS; COVERAGE OF EXPENSES; RECOVERY OF STATE FUNDS; REIMBURSEMENT OF DEPARTMENT OF PUBLIC HEALTH**

(1) Contracts or evidences of coverage issued by a health maintenance organization, which provide benefits for health care services, shall to the full extent of coverage provided for any other emergency or accident care, provide for the payment of actual expenses incurred, without offset or reduction for benefit deductibles or co-insurance amounts, in the examination and testing of a victim of an offense defined in Sections 11-1. 20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961, as now or hereafter amended, [FN1] or an attempt to commit such offense, to establish that sexual contact did occur or did not occur, and to establish the presence or absence of sexually transmitted disease or infection, and examination and treatment of injuries and trauma sustained by a victim of such offense.

(2) For purposes of enabling the recovery of State funds, any health maintenance organization subject to this Section shall upon reasonable demand by the Department of Public Health disclose the names and identities of its enrollees entitled to benefits under this provision to the Department of Public Health whenever the Department of Public Health has determined that it has paid, or is about to pay for, health care services for which a health maintenance organization is liable under this Section. All information received by the Department of Public Health under this provision shall be held on a confidential basis and shall not be subject to subpoena and shall not be made public by the Department of Public Health or used for any purpose other than that authorized by this Section.

(3) Whenever the Department of Public Health finds that it has paid for all or part of any health care services for which a health maintenance organization is obligated to pay under this Section, the Department of Public



Health shall be entitled to receive reimbursement for its payments from such organization provided that the Department of Public Health has notified the organization of its claims before the organization has paid such benefits to its enrollees or in behalf of its enrollees.

#### **410 ILL. COMP. STAT. 70/6.2 (2011). ASSISTANCE AND GRANTS**

Assistance and grants. The Department shall assist in the development and operation of programs which provide hospital emergency services and forensic services to sexual assault survivors, and, where necessary, to provide grants to hospitals for this purpose.

#### **410 ILL. COMP. STAT. 70/7 (2011). CHARGES AND REIMBURSEMENT**

(a) When any ambulance provider furnishes transportation, hospital provides hospital emergency services and forensic services, hospital or health care professional or laboratory provides follow-up healthcare, or pharmacy dispenses prescribed medications to any sexual assault survivor, as defined by the Department of Healthcare and Family Services, who is neither eligible to receive such services under the Illinois Public Aid Code [FN1] nor covered as to such services by a policy of insurance, the ambulance provider, hospital, health care professional, or laboratory shall furnish such services to that person without charge and shall be entitled to be reimbursed for its billed charges in providing such services by the Illinois Sexual Assault Emergency Treatment Program under the Department of Healthcare and Family Services. Pharmacies shall dispense prescribed medications without charge to the survivor and shall be reimbursed at the Department of Healthcare and Family Services' Medicaid allowable rates.

(b) The hospital is responsible for submitting the request for reimbursement for ambulance services, hospital emergency services, and forensic services to the Illinois Sexual Assault Emergency Treatment Program. Nothing in this Section precludes hospitals from providing follow-up healthcare and receiving reimbursement under this Section.

(c) The health care professional who provides follow-up healthcare and the pharmacy that dispenses prescribed medications to a sexual assault survivor are responsible for submitting the request for reimbursement for follow-up healthcare or pharmacy services to the Illinois Sexual Assault Emergency Treatment Program.

(d) The Department of Healthcare and Family Services shall establish standards, rules, and regulations to implement this Section.

#### **740 ILL. COMP. STAT. 45/6.1 (2011). RIGHT TO COMPENSATION**

(a) Within 2 years of the occurrence of the crime, or within one year after a criminal indictment of a person for an offense, upon which the claim is based, he files an application, under oath, with the Court of Claims and on a form prescribed in accordance with Section 7.1 furnished by the Attorney General. If the person entitled to compensation is under 18 years of age or under other legal disability at the time of the occurrence or becomes legally disabled as a result of the occurrence, he may file the application required by this subsection within 2 years after he attains the age of 18 years or the disability is removed, as the case may be. Legal disability includes a diagnosis of posttraumatic stress disorder.

(b) For all crimes of violence, except those listed in subsection (b-1) of this Section, the appropriate law enforcement officials were notified within 72 hours of the perpetration of the crime allegedly causing the

death or injury to the victim or, in the event such notification was made more than 72 hours after the perpetration of the crime, the applicant establishes that such notice was timely under the circumstances.

(b-1) For victims of offenses defined in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961, the appropriate law enforcement officials were notified within 7 days of the perpetration of the crime allegedly causing death or injury to the victim or, in the event that the notification was made more than 7 days after the perpetration of the crime, the applicant establishes that the notice was timely under the circumstances. If the applicant has obtained an order of protection or a civil no contact order or has presented himself or herself to a hospital for sexual assault evidence collection and medical care, such action shall constitute appropriate notification under this subsection (b-1) or subsection (b) of this Section.

(c) The applicant has cooperated with law enforcement officials in the apprehension and prosecution of the assailant. If the applicant has obtained an order of protection or a civil no contact order or has presented himself or herself to a hospital for sexual assault evidence collection and medical care, such action shall constitute cooperation under this subsection (c).

(d) The applicant is not the offender or an accomplice of the offender and the award would not unjustly benefit the offender or his accomplice.

(e) The injury to or death of the victim was not substantially attributable to his own wrongful act and was not substantially provoked by the victim.

### **ILL. ADMIN. CODE TIT. 89, §148.510 (2011). REIMBURSEMENT**

When a hospital or ambulance provider furnishes emergency services, a hospital or health care professional or laboratory provides follow-up healthcare, or a pharmacy dispenses prescribed medications to any sexual assault survivor who is neither eligible to receive those services under the Illinois Public Aid Code [305 ILCS 5/5] nor covered for those services by a policy of insurance, the hospital, ambulance provider, health care professional, laboratory or pharmacy shall furnish the services without charge to that person, and shall be entitled to be reimbursed in providing the services, under the following conditions:

a) An Illinois hospital shall be eligible for reimbursement only after receiving Department of Public Health approval for participation as a Sexual Assault Treatment Facility or as a Sexual Assault Transfer Facility.

b) Charges for outpatient emergency care, physician, and ambulance transportation, and other related charges, shall be reimbursed only through the hospital outpatient billing department.

1) Physicians, ambulance providers, and other miscellaneous medical providers rendering services in the hospital emergency department shall not be directly reimbursed by the Department of Healthcare and Family Services.

2) Charges for inpatient care shall not be reimbursed.

3) Charges must be directly related to care rendered for examinations, injuries, or trauma resulting from a sexual assault and/or the completion of sexual assault evidence collection through the use and application of the Illinois State Police Sexual Assault Evidence Collection Kit.

4) Emergency services must have been provided within the hospital emergency department or under the direction of an attending emergency room physician at the facility who supervised or provided the hospital emergency care of the sexual assault survivor, or during the ambulance transport of the sexual assault survivor.

5) Charges may include, but are not limited to, outpatient emergency care, physician, laboratory, x-ray, pharmacy and ambulance services, including charges for follow-up visits to the emergency department that are related to the sexual assault and occur within 90 days after the initial visit.

6) The billed charges for services provided to sexual assault survivors shall be no greater than the provider's customary charges to the general public for those types of services. Physician fees shall be no greater than those considered usual and customary in the community. Pharmacy services shall be reimbursed at the Department's pharmacy reimbursement rates established in 89 Ill. Adm. Code 140.445 and 89 Ill. Adm. Code 140.446.

7) Claims must be received by the Department within 12 months from the date of service to be eligible for payment.

c) The hospital shall maintain sufficient records to document its charges for services to each sexual assault survivor. The records shall be available for the Department's review upon its request and shall contain at least the following:

1) Sexual assault survivor's name, address, date of birth, Social Security Number, marital status, sex, employer and name of parent or guardian (if minor patient);

2) Date of service;

3) Hospital patient number and name of attending physician;

4) List of services provided;

5) Charges for each service;

6) Any documentation concerning the sexual assault survivor's insurance coverage; and

7) A report outlining each service provided and paid for by the Department and the services available to sexual assault survivors.

d) The hospital outpatient-billing department shall submit the following documentation in order to be considered for reimbursement:

1) The Illinois Department of Healthcare and Family Services Sexual Assault Survivor Program Outpatient Hospital Billing Form, completed in its entirety for the initial visit and follow-up visits;

2) When applicable, the Billing Form with documentation of any insurance payment that has been received, or a copy of the denial from the insurance carrier;

3) A legible copy of the emergency room admission form with physician's notes and orders and nurse's notes; and

4) Itemized statement of all charges from each provider.

e) The health care professional who provides follow-up healthcare, the laboratory that furnishes follow-up services, and the pharmacy that dispenses related prescribed medications to a sexual assault survivor are responsible for submitting the request for reimbursement for follow-up healthcare, laboratory services or pharmacy services to the Illinois Sexual Assault Emergency Treatment Program under the Department of Healthcare and Family Services. Health care professionals and laboratories are entitled to be reimbursed for their billed charges. Pharmacies shall be reimbursed at the Department's pharmacy reimbursement rates established in 89 Ill. Adm. Code 140.445 and 140.446.

f) Under no circumstances shall a sexual assault survivor be billed for outpatient hospital care, emergency room care, follow-up health care or transportation services when the services are directly related to the sexual assault.

g) A request for reimbursement that is rejected by the Department shall be returned to the requestor and accompanied by an explanation that specifies the basis for rejection. Corrected or amended requests may be resubmitted to the Department within 12 months from the date of service.

## **410 ILL. COMP. STAT. 70/6.4 (2011). SEXUAL ASSAULT EVIDENCE COLLECTION PROGRAM**

(a) There is created a statewide sexual assault evidence collection program to facilitate the prosecution of persons accused of sexual assault. This program shall be administered by the Illinois State Police. The program shall consist of the following: (1) distribution of sexual assault evidence collection kits which have been approved by the Illinois State Police to hospitals that request them, or arranging for such distribution by the manufacturer of the kits, (2) collection of the kits from hospitals after the kits have been used to collect evidence, (3) analysis of the collected evidence and conducting of laboratory tests, (4) maintaining the chain of custody and safekeeping of the evidence for use in a legal proceeding, and (5) the comparison of the collected evidence with the genetic marker grouping analysis information maintained by the Department of State Police under Section 5-4-3 of the Unified Code of Corrections and with the information contained in the Federal Bureau of Investigation's National DNA database; provided the amount and quality of genetic marker grouping results obtained from the evidence in the sexual assault case meets the requirements of both the Department of State Police and the Federal Bureau of Investigation's Combined DNA Index System (CODIS) policies. The standardized evidence collection kit for the State of Illinois shall be the Illinois State Police Sexual Assault Evidence Kit. A sexual assault evidence collection kit may not be released by a hospital without the written consent of the sexual assault survivor. In the case of a survivor who is a minor 13 years of age or older, evidence and information concerning the sexual assault may be released at the written request of the minor. If the survivor is a minor who is under 13 years of age, evidence and information concerning the alleged sexual assault may be released at the written request of the parent, guardian, investigating law enforcement officer, or Department of Children and Family Services. If the survivor is an adult who has a guardian of the person, a health care surrogate, or an agent acting under a health care power of attorney, then consent of the guardian, surrogate, or agent is not required to release evidence and information concerning the sexual assault. If the adult is unable to provide consent for the release of evidence and information and a guardian, surrogate, or agent under a health care power of attorney is unavailable or unwilling to release the information, then an investigating law enforcement officer may authorize the release. Any health care professional, including any physician, advanced practice nurse, physician assistant, or nurse, sexual assault nurse examiner, and any health care institution, including any hospital, who provides evidence or information to a law enforcement officer pursuant to a written request as specified in this Section is immune from any civil or professional liability that might arise from those actions, with the exception of willful or wanton misconduct. The immunity provision applies only if all of the requirements of this Section are met.

(a-5) (Blank).

(b) The Illinois State Police shall administer a program to train hospitals and hospital personnel participating in the sexual assault evidence collection program, in the correct use and application of the sexual assault evidence collection kits. A sexual assault nurse examiner may conduct examinations using the sexual assault evidence collection kits, without the presence or participation of a physician. The Department shall cooperate with the Illinois State Police in this program as it pertains to medical aspects of the evidence collection.

(c) In this Section, "sexual assault nurse examiner" means a registered nurse who has completed a sexual assault nurse examiner (SANE) training program that meets the Forensic Sexual Assault Nurse Examiner Education Guidelines established by the International Association of Forensic Nurses.

# Indiana

## **IND. CODE §5-2-6.1-39: PAYMENT OF FORENSIC MEDICAL EXAMS AND ADDITIONAL FORENSIC SERVICES**

(a) When a hospital acting under IC 16-21-8 provides a forensic medical exam to an alleged sex crime victim, the hospital shall furnish the forensic medical exam described in IC 16-21-8-6 without charge. The victim services division of the Indiana criminal justice institute shall reimburse a hospital for its costs in providing these services and shall adopt rules and procedures to provide for reasonable reimbursement. A hospital may not charge the victim for services required under this chapter, despite delays in reimbursement from the victim services division of the Indiana criminal justice institute.

(b) When a hospital acting under IC 16-21-8 provides a forensic medical exam to an alleged sex crime victim, the hospital may also furnish additional forensic services to the alleged sex crime victim. However, the additional forensic services, if furnished, shall be furnished without charge. The victim services division of the Indiana criminal justice institute shall reimburse a hospital for its costs in providing these services and may adopt rules and procedures to provide for reasonable reimbursement. A hospital may not charge the victim for services required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

(c) Costs incurred by a hospital or other emergency medical facility for the examination of the victim of a sex crime (under IC 35-42-4) not covered under IC 16-21-8 or incest (under IC 35-46-1-3), if the examination is performed for the purposes of gathering evidence for possible prosecution, may not be charged to the victim of the crime.

(d) When a licensed medical service provider not covered by subsection (a) or (b) elects to provide a forensic medical exam to an alleged victim of one (1) or more of the sex crimes listed in IC 16-21-8-1(b), the medical service provider shall furnish the exam without charge. The victim services division of the Indiana criminal justice institute shall reimburse a medical service provider for costs in providing forensic medical exams. A medical service provider may not charge the victim for a forensic medical exam required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

(e) When a licensed medical service provider not covered by subsection (a) or (b) elects to provide additional forensic services to an alleged sex crime victim, the medical service provider shall furnish the services without charge. The victim services division of the Indiana criminal justice institute shall reimburse a medical service provider for costs in providing the additional forensic services. A medical service provider may not charge the victim for services required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

(f) The victim services division of the Indiana criminal justice institute is not required to reimburse a medical service provider for costs in providing additional forensic services unless the following conditions are met:

- (1) The victim is at least eighteen (18) years of age.
- (2) If the victim is less than eighteen (18) years of age, a report of the sex crime must be made to child protective services or a law enforcement officer.
- (3) The sex crime occurred in Indiana.

If the division finds a compelling reason for failure to comply with the requirements of this section, the division may suspend the requirements of this section.

(g) Costs incurred by a licensed medical service provider for the examination of the victim of a sex crime (under IC 35-42-4) not covered under IC 16-21-8 or incest (under IC 35-46-1-3) may not be charged to the victim of the crime if the examination is performed for the purposes of gathering evidence for possible prosecution.

**IND. CODE §16-21-8-1 (2011). FORENSIC MEDICAL EXAMS AND ADDITIONAL FORENSIC SERVICES; RULES; ENUMERATION OF SEX CRIMES**

(a) A hospital licensed under IC 16-21-2 that provides general medical and surgical hospital services shall provide forensic medical exams and additional forensic services to all alleged sex crime victims who apply for forensic medical exams and additional forensic services in relation to injuries or trauma resulting from the alleged sex crime. The provision of services may not be dependent on a victim's reporting to, or cooperating with, law enforcement.

(b) For the purposes of this chapter, the following crimes are considered sex crimes:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Child molesting (IC 35-42-4-3).
- (4) Vicarious sexual gratification (IC 35-42-4-5).
- (5) Sexual battery (IC 35-42-4-8).
- (6) Sexual misconduct with a minor (IC 35-42-4-9).
- (7) Child solicitation (IC 35-42-4-6).
- (8) Child seduction (IC 35-42-4-7).
- (9) Incest (IC 35-46-1-3).

(c) Payment for services under this section shall be processed in accordance with rules adopted by the victim services division of the Indiana criminal justice institute.

**IND. CODE. §16-21-8-5 (2011). COMPENSATION OR REIMBURSEMENT FOR FORENSIC MEDICAL EXAMS; REPORT TO POLICE; COOPERATION OF VICTIM; REQUIREMENTS; SUSPENSION**

(a) The division shall award compensation or reimbursement under this chapter for forensic medical exams.

(b) The division is not required to award compensation or reimbursement under this chapter for additional forensic services unless the following conditions are met:

- (1) The victim is at least eighteen (18) years of age.
- (2) If the victim is less than eighteen (18) years of age, a report of the sex crime must be made to child protective services or a law enforcement officer.
- (3) The sex crime occurred in Indiana.

If the division finds a compelling reason for failure to comply with the requirements of this section, the division may suspend the requirements of this section.

(c) A claim filed for services provided at a time before the provision of the forensic medical exams and additional forensic services for which an application for reimbursement is filed is not covered under this chapter.

### **203 IND. ADMIN. CODE 1-2-1 (2011). ELIGIBILITY AND COOPERATION**

(a) Beginning September 1, 1985, a person who seeks hospital or licensed medical service provider emergency room treatment for injuries and trauma resulting from an alleged sexual assault shall be considered an alleged sex crime victim eligible to have the costs of their emergency room treatment paid by the fund to the servicing hospital or licensed medical service provider if:

(1) Within forty-eight (48) hours following the alleged crime:

(A) a police report regarding the incident has been filed; or

(B) the hospital or licensed medical service provider, sex crime victim, or a responsible party has contacted an appropriate law enforcement agency.

(2) A representative of a law enforcement agency must, in writing, confirm that the sex crime victim has cooperated in the initial law enforcement investigation and report.

(b) The sex crime victim must consent to the emergency room treatment and evidence-gathering physical examination, and the treatment must be ordered by the attending physician. If the sex crime victim is a minor or incompetent, the sex crime victim's parent or guardian, an officer of the court, or other authorized individual may sign for the sex crime victim. The sex crime victim or other authorized individual must sign and complete the appropriate sections of the division's claim form. The eligibility requirements in subsection (a)(1) and (a)(2) may be suspended if the director of the division finds a compelling reason to do so. A participating hospital or licensed medical service provider is to treat all alleged sex crime victims and shall render services at no cost to the alleged sex crime victim despite any delays in payment from the fund. A hospital or licensed medical service provider shall provide medical services to all alleged sex crime victims without making any legal determinations as to whether the patient has actually been sexually assaulted or whether the hospital or licensed medical service provider will be eligible for payment when the patient has executed the prescribed fund application for payment.

(c) The fund may deny payment to the hospital or licensed medical service provider where the patient fails to meet the eligibility requirements as listed in subsection (a), in IC 5-2-6.1, or in IC 16-21-8. If payment is denied, the hospital or licensed medical service provider will be notified and may then bill the patient or collateral source for services rendered.

### **203 IND. ADMIN. CODE §1-2-2 (2011). APPLICATION FOR REIMBURSEMENT; INFORMATION REQUIRED**

(a) To receive payment, the hospital or licensed medical service provider, sex crime victim, and, if present, a law enforcement agent must supply information regarding the alleged sex crime on a claim form prescribed by the division completed and filed not later than ninety (90) days from the date of the first emergency room medical services provided. The hospital or licensed medical service provider shall attach to the application the patient's emergency department report of the date of treatment including the following:

(1) A copy of the medical examination report by the attending physician.

(2) A narrative statement describing the alleged sex crime, including the time and place thereof, and a brief description of the injuries sustained.

(3) An itemized statement showing all services provided to the alleged sex crime victim that were a direct and proximate result of the alleged sex crime.

(b) The division may also require additional information as needed to determine eligibility. The hospital or licensed medical service provider shall provide to the patient, at the time of the sex crime victim's release from the hospital or licensed medical service provider, the fund information sheet. Applications for payment for the following subsequent medical procedures shall be filed within thirty (30) days of the services rendered:

(1) Sexually transmitted disease testing.

(2) Pregnancy testing.

(3) Mental health counseling for problems directly related to the sexual assault.

(c) If an application is denied or additional information from the hospital or licensed medical service provider is required, the division shall so notify the hospital or licensed medical service provider in writing. A hospital or licensed medical service provider has thirty (30) days from the date of the division's notification to present the information required to the division. The additional information will then be evaluated.

(d) All applications should be mailed to or filed in person at the division's office located in Indianapolis, Indiana.

### **203 IND. ADMIN. CODE §1-2-3 (2011). COVERED SERVICES**

(a) As used in this rule, "emergency hospital service" means outpatient services rendered in the emergency room that are a direct and proximate result of the alleged sex crime, including, but not limited to, at the division's discretion, the following:

(1) Reasonable costs of counseling services for the sex crime victim directly relating to the assault, rendered within one (1) year following the initial emergency room treatment. At the division's discretion, other persons deemed necessary for the sex crime victim's sex crime crisis counseling may also be eligible for counseling services. The counseling costs are reimbursable only when services are rendered by or through a hospital or licensed medical service provider participating in the fund. Included in the itemized statement of counseling services shall be:

(A) a delineation of the party receiving the service;

(B) the date of the subsequent counseling; and

(C) the date of the initial emergency room treatment.

(2) Evidence-gathering and diagnostic physical examinations.

(3) Initial pregnancy and sexually transmitted disease testing related to the alleged sex crime.

(4) Other itemized laboratory work including the following:

(A) Alcohol and drug testing.

(B) Syphilis testing up to ninety (90) days following the alleged sex crime.

(C) Pregnancy and other sexually transmitted disease testing up to thirty (30) days following the alleged sex crime.

(5) Suturing and care of any wounds, including anesthesia and prescribed medications.

(6) X-rays.

(7) Other limited outpatient emergency treatment at the discretion of the division.

(b) The amounts charged to the division by a hospital or a licensed medical service provider for any qualifying emergency hospital service shall be commensurate with the service actually rendered.



(c) Noncompensable services include the following:

- (1) Inpatient hospital services.
- (2) Nonsexual assault related services.

(d) If a patient is subsequently admitted to the hospital on an inpatient basis following emergency room treatment, the patient may apply to the division and meet separate eligibility requirements to receive benefits for inpatient treatment.

## **IND. CODE §16-21-8-10 (2011). LAW ENFORCEMENT PROCEDURES**

(a) Law enforcement shall:

- (1) obtain the sample within forty-eight (48) hours after receiving a provider's notification; and
- (2) transport the sample to secured storage.

(b) Law enforcement shall keep the sample in secured storage until the earlier of the following:

- (1) At least one (1) year after the date the sample is placed in secured storage.
- (2) The victim reports the sex crime to law enforcement and the sample is transported to the crime lab for investigation and use as evidence.

(c) The division shall notify the victim, as described in subsection (d), that the victim's sample will be removed from secured storage and may be destroyed if the victim does not report the sex crime to law enforcement on or before the date described in subsection (b)(1).

(d) The notice the division is required to provide a victim under subsection (c) shall be sent:

- (1) by first class mail to the individual's last known address;
- (2) by electronic mail to the individual's last known electronic mail address; and
- (3) six (6) months and thirty (30) days before the date described in subsection (b)(1).

(e) Each county shall develop and implement a plan for the secured storage of samples.

(f) The director of the Indiana criminal justice institute may delay the implementation of this section until the earlier of the following:

- (1) A date set by the director.
- (2) The date funding becomes available by a grant through the criminal justice institute or by an appropriation from the general assembly.

If the director of the criminal justice institute delays implementation of this section, the director shall notify the prosecuting attorney of each county of the director's action and when funding becomes available to implement this section.

(g) The failure to comply with:

- (1) this chapter;
- (2) a plan adopted by a county; or
- (3) a protocol adopted by a sexual assault response team;

does not, standing alone, affect the admissibility of a sample as evidence in a criminal or civil proceeding.

## **Iowa**

### **IOWA CODE ANN. § 915.41 (2011). MEDICAL EXAMINATION COSTS**

The cost of a medical examination of a victim for the purpose of gathering evidence and the cost of treatment of a victim for the purpose of preventing venereal disease shall be paid from the fund established in section 915.94.

### **IOWA CODE ANN. § 915.94 (2011). VICTIM COMPENSATION FUND**

A victim compensation fund is established as a separate fund in the state treasury. Moneys deposited in the fund shall be administered by the department and dedicated to and used for the purposes of section 915.41 and this subchapter. In addition, the department may use moneys from the fund for the purpose of the department's prosecutor-based victim service coordination, including the duties defined in sections 910.3 and 910.6 and this chapter, and for the award of funds to programs that provide services and support to victims of domestic abuse or sexual assault as provided in chapter 236, to victims under section 710A.2, and for the support of an automated victim notification system established in section 915.10A. The department may also use up to one hundred thousand dollars from the fund to provide training for victim service providers. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state.

### **IOWA ADMIN. CODE R. 61-9.80(915) (2011). ADMINISTRATION OF SEXUAL ABUSE EXAMINATION PAYMENT.**

The crime victim assistance program of the department of justice shall administer the sexual abuse examination program as provided in Iowa Code section 915.41. That section states in part:

“The cost of a medical examination for the purpose of gathering evidence and the cost of treatment for the purpose of preventing sexually transmitted disease shall be borne by the department of justice.”

Requests for payment should be addressed to: Sexual Abuse Examination Payments, Crime Victim Assistance Division, Lucas State Office Building, Ground Floor, 321 East 12th Street, Des Moines, Iowa 50319; telephone (515)281-5044 or 1-800-373-5044.

Rules 9.80(915) to 9.87(915) are intended to implement Iowa Code section 915.41.

### **IOWA ADMIN. CODE R. 61-9.81(915) (2011). DEFINITIONS.**

“Administration” means administrator of the crime victim assistance program established in the department of justice.

“Board” means crime victim assistance board.

“Department” means the Iowa department of justice.

“Eligible claimant” means a medical provider that provides a sexual abuse examination to a sexual assault victim. The following are eligible to file a claim with the crime victim assistance program in the event that they have made payment to a medical provider for the costs of a sexual abuse examination:

1. A victim of sexual abuse.
2. A person responsible for the maintenance of a sexual abuse victim.
3. A dependent of a victim who has died as a result of injuries sustained in a sexual assault.
4. The guardian of a sexual abuse victim.

“Reasonable charges” means those ordinarily charged by the provider of the service to the general public for services of a similar nature.

“Sexual abuse” means sexual abuse as defined in Iowa Code sections 709.1 and 726.2.

“Sexual abuse examination” means a medical examination provided to a woman, man, or child to collect evidence of sexual abuse victimization of that person as defined in Iowa Code sections 709.1 and 726.2 and provide treatment for the prevention of sexually transmitted disease pursuant to Iowa Code section 915.41. When applicable, the provider of a sexual abuse examination shall file a child abuse report with the Iowa department of human services as required by Iowa Code section 232.70.

Rules 9.80(915) to 9.87(915) are intended to implement Iowa Code section 915.41.

#### **IOWA ADMIN. CODE R. 61-9.82(915) (2011). APPLICATION FOR SEXUAL ABUSE EXAMINATION PAYMENT.**

9.82(1) Consideration for payment. The department will consider payment upon receipt of a claim for reimbursement from a medical provider indicating that the claim is for the collection of evidence by sexual abuse examination. In the case that a victim, guardian of a victim, person responsible for the victim, or dependent of a victim who died of injuries sustained in a sexual assault has paid part or all of the charges incurred, a copy of the provider bill and documentation of personal payment of the bill must be submitted for reimbursement. An application for sexual abuse examination payment must include the federal identification number or social security number of the claimant.

9.82(2) Application filing. To apply for payment under the sexual abuse examination program, the form or bill submitted must identify the sexual assault victim by name, birth date, and patient number, indicate that the claim is for a sexual abuse examination, and itemize all services rendered and the fee for each service.

Rules 9.80(915) to 9.87(915) are intended to implement Iowa Code section 915.41.

#### **IOWA ADMIN. CODE R. 61-9.83(915) (2011). COMPUTATION OF SEXUAL ABUSE EXAMINATION PAYMENTS.**

9.83(1) Payment for examination. The department shall make payment for sexual abuse examinations, as appropriate, for services including, but not limited to:

- a. Examiner's fee for collection of:
  - (1) Patient's medical history;

- (2) Physical examination;
  - (3) Collection of laboratory specimens;
  - (4) Return visits to test for sexually transmitted disease;
  - (5) Treatment for the prevention of sexually transmitted disease.
- b. Examination facility.
- (1) Emergency room, clinic room or office room fee;
  - (2) Pelvic tray and medically required supplies.
- c. Laboratory collection and processing of specimens for: criminal evidence; sexually transmitted disease; and pregnancy testing.

9.83(2) Provider payment. The department will pay up to \$300 for the examination facility and \$200 for examiner fees. Any charges in excess of these amounts will require additional documentation from the provider. The crime victim assistance program will pay only those charges determined by the department to be reasonable and fair.

The Iowa department of public safety division of criminal investigation makes sexual abuse examination kits available to health care providers at no cost.

Rules 9.80(915) to 9.87(915) are intended to implement Iowa Code section 915.41.

**IOWA ADMIN. CODE R. 61-9.84(915) (2011). VICTIM RESPONSIBILITY FOR PAYMENT.**

A victim of sexual abuse is not responsible for the payment of the costs of a sexual abuse examination determined to be eligible for payment by the department. A medical provider shall not submit any remaining balance after sexual abuse examination program payment to the sexual abuse victim.

Rules 9.80(915) to 9.87(915) are intended to implement Iowa Code section 915.41.

**IOWA ADMIN. CODE R. 61-9.85(915) (2011). SEXUAL ABUSE EXAMINATION--RIGHT TO RESTITUTION.**

In all criminal cases under Iowa Code chapter 709 and sections 726.2 and 710.2 in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, restitution may be ordered from the offender to the crime victim assistance program for the cost paid by the department for a sexual abuse examination rendered to the victim of that crime pursuant to Iowa Code section 910.2.

**IOWA ADMIN. CODE R. 641-11.73(709B) (2011). MEDICAL EXAMINATION COSTS.**

The cost of a medical examination for the purpose of gathering evidence and the cost of treatment for the purpose of preventing venereal disease shall be paid from the victim compensation fund as established in Iowa Code chapter 709B, and 1998 Iowa Acts, House File 2527, section 55. Information is available from the department of justice, crime victim assistance program, telephone (515)281-5044.

These rules are intended to implement Iowa Code section 141A.3(1).

**IOWA ADMIN. CODE R. 61-9.56(13) (2011). ELIGIBILITY REQUIREMENTS.**

Funds must be used only to provide victim services, or justice support to victims of crime, and training or technical assistance to victim service providers and allied professionals. Program grants shall not be used to supplant other available or mandated funds. An applicant must meet the following requirements:

9.56(1) The applicant shall be a public agency or private nonprofit organization, or combination thereof, that provides services to crime victims or training and technical assistance to victim service providers and allied professionals.

9.56(2) The applicant shall provide services to victims of crime through crime victim centers, law enforcement officers, prosecutors, and other allied professionals. Services provided to victims by crime victim centers shall include but are not limited to crisis intervention, law enforcement and court advocacy, group and individual follow-up counseling, transportation, and information and referral.

9.56(3) An applicant providing services to victims of domestic abuse must also provide or arrange safe shelter for victims and their children when needed at no cost to the victims. To ensure staff training and best practice standards, preference will be given to domestic abuse programs certified by the Iowa Coalition Against Domestic Violence.

9.56(4) An applicant providing services to victims of sexual abuse must also provide support to victims at the time of an evidentiary sexual abuse examination. To ensure staff training and best practice standards, preference will be given to sexual abuse programs certified by the Iowa Coalition Against Sexual Assault.

9.56(5) The applicant shall promote within the community a coordinated public and private effort to assist victims.

9.56(6) The applicant shall be an equal-opportunity employer and provide services on an equal-opportunity basis.

9.56(7) The applicant shall comply with applicable federal and state statutes and rules, all requirements specified in the grant between the department and any outside funding source, and all requirements in the RFP or any other contractual document.

9.56(8) The applicant shall assist victims in seeking state compensation benefits.

9.56(9) The applicant shall have a grievance procedure established for victims, employees and volunteers.

9.56(10) The applicant shall ensure that all employees and volunteers of crime victim centers that provide direct services to victims are trained as victim counselors as defined in Iowa Code section 915.20A.

9.56(11) The applicant shall provide services within the geographical service area without regard to a victim's ability to pay.

9.56(12) An existing program must document results of prior programming that demonstrate that the needs of victims have been met effectively and that the applicant has financial support from other sources.

Rules 9.80(915) to 9.87(915) are intended to implement Iowa Code section 915.41.

## Kansas

### **KAN. STAT. ANN. §65-448 (2011). QUALIFIED PERSONS AT MEDICAL CARE FACILITIES TO EXAMINE VICTIMS OF SEXUAL OFFENSES, WHEN; REMEDY FOR REFUSAL; COSTS**

(a) Upon the request of any law enforcement officer and with the written consent of the reported victim, or upon the request of the victim, any physician, a licensed physician assistant, who has been specially trained in performing sexual assault evidence collection, or a registered professional nurse, who has been specially trained in performing sexual assault evidence collection, on call or on duty at a medical care facility of this state, as defined by subsection (h) of K.S.A. 65-425, and amendments thereto, shall examine persons who may be victims of sexual offenses cognizable as violations of K.S.A. 21-5503, 21-5504, 21-5506 or 21-5604, and amendments thereto, using Kansas bureau of investigation sexual assault evidence collection kits or similar kits approved by the Kansas bureau of investigation, for the purposes of gathering evidence of any such crime. If an examination has taken place solely upon the request of the victim, the medical care facility shall not notify any law enforcement agency without the written consent of the victim, unless otherwise required by law. If the physician, licensed physician assistant or registered professional nurse refuses to perform such physical examination the prosecuting attorney is hereby empowered to seek a mandatory injunction against such physician, licensed physician assistant or registered professional nurse to enforce the provisions of this act. Any refusal by a physician, licensed physician assistant or registered professional nurse to perform an examination which has been requested pursuant to this section shall be reported by the county or district attorney to the state board of healing arts or the board of nursing, whichever is applicable, for appropriate disciplinary action. The department of health and environment, in cooperation with the Kansas bureau of investigation, shall establish procedures for gathering evidence pursuant to this section. A minor may consent to examination under this section. Such consent is not subject to disaffirmance because of minority, and consent of parent or guardian of the minor is not required for such examination. The hospital or medical facility shall give written notice to the parent or guardian of a minor that such an examination has taken place.

(b) All sexual assault kits collected that are not released to law enforcement shall be sealed by either the sexual assault nurse examiner program or the facility that provided the examination and kept for five years in the evidence storage facilities of the Kansas bureau of investigation. After five years, such kits shall be destroyed by the Kansas bureau of investigation.

(c) The fee chargeable for conducting an examination of a victim as herein provided shall be established by the department of health and environment. Such fee, including the cost of the sexual assault evidence collection kit shall be charged to and paid by the county where the alleged offense was committed, and refusal of the victim to report the alleged offense to law enforcement shall not excuse or exempt the county from paying such fee. The fee for conducting an examination of a victim as herein provided shall not be charged or billed to the victim or to the victim's insurance carrier. Such county shall be reimbursed such fee upon the costs being paid by the defendant as court costs assessed pursuant to K.S.A. 28-172a, and amendments thereto.

(d) No medical care facility shall incur any civil, administrative or criminal liability as a result of notifying or failing to notify any law enforcement agency if an examination has taken place solely upon the request of the victim and such notification is not otherwise required by law.

(e) The Kansas bureau of investigation may adopt rules and regulations as deemed necessary to implement the provisions of this section.

## Kentucky

### **KY. REV. STAT. ANN. § 216B.400 (2011). EMERGENCY CARE; EXAMINATION SERVICES FOR VICTIMS OF SEXUAL OFFENSES; EXAMINATION EXPENSES PAID BY CRIME VICTIMS' COMPENSATION BOARD; REPORTING TO LAW ENFORCEMENT; EXAMINATION SAMPLE AS EVIDENCE**

(1) Where a person has been determined to be in need of emergency care by any person with admitting authority, no such person shall be denied admission by reason only of his or her inability to pay for services to be rendered by the hospital.

(2) Every hospital of this state which offers emergency services shall provide that a physician, a sexual assault nurse examiner, who shall be a registered nurse licensed in the Commonwealth and credentialed by the Kentucky Board of Nursing as provided under KRS 314.142, or another qualified medical professional, as defined by administrative regulation promulgated by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707, is available on call twenty-four (24) hours each day for the examinations of persons seeking treatment as victims of sexual offenses as defined by KRS 510.010 to 510.140, 530.020, 530.064(1)(a), and 531.310.

(3) An examination provided in accordance with this section of a victim of a sexual offense may be performed in a sexual assault examination facility as defined in KRS 216B.015. An examination under this section shall apply only to an examination of a victim.

(4) The physician, sexual assault nurse examiner, or other qualified medical professional, acting under a statewide medical forensic protocol which shall be developed by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707, and promulgated by the secretary of justice and public safety pursuant to KRS Chapter 13A shall, upon the request of any peace officer or prosecuting attorney, and with the consent of the victim, or upon the request of the victim, examine such person for the purposes of providing basic medical care relating to the incident and gathering samples that may be used as physical evidence. This examination shall include but not be limited to:

- (a) Basic treatment and sample gathering services; and
- (b) Laboratory tests, as appropriate.

(5) Each victim shall be informed of available services for treatment of sexually transmitted infections, pregnancy, and other medical and psychiatric problems. Pregnancy counseling shall not include abortion counseling or referral information.

(6) Each victim shall be informed of available crisis intervention or other mental health services provided by regional rape crisis centers providing services to victims of sexual assault.

(7) Notwithstanding any other provision of law, a minor may consent to examination under this section. This consent is not subject to disaffirmance because of minority, and consent of the parents or guardians of the minor is not required for the examination.

(8) (a) The examinations provided in accordance with this section shall be paid for by the Crime Victims' Compensation Board at a rate to be determined by the administrative regulation promulgated by the board after consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707.

(b) Upon receipt of a completed claim form supplied by the board and itemized billing for a forensic sexual assault examination or related services within the scope of practice of the respective provider, the board shall reimburse the hospital or sexual assault examination facility, pharmacist, health department, physician, sexual assault nurse examiner, or other qualified medical professional as provided in administrative regulations promulgated by the board pursuant to KRS Chapter 13A. Reimbursement shall be made to an out-of-state nurse who is credentialed in the other state to provide sexual assault examinations, an out-of-state hospital, or an out-of-state physician if the sexual assault occurred in Kentucky.

(c) Independent investigation by the Crime Victims' Compensation Board shall not be required for payment of claims under this section; however, the board may require additional documentation or proof that the forensic medical examination was performed.

(9) No charge shall be made to the victim for sexual assault examinations by the hospital, the sexual assault examination facility, the physician, the pharmacist, the health department, the sexual assault nurse examiner, other qualified medical professional, the victim's insurance carrier, or the Commonwealth.

(10) (a) Each victim shall have the right to determine whether a report or other notification shall be made to law enforcement, except where reporting of abuse and neglect of a child, spouse, and other vulnerable adult is required, as set forth in KRS 209.030, 209A.030, and 620.030. No victim shall be denied an examination because the victim chooses not to file a police report, cooperate with law enforcement, or otherwise participate in the criminal justice system.

(b) 1. All samples collected during an exam where the victim has chosen not to immediately report to law enforcement shall be stored, released, and destroyed, if appropriate, in accordance with an administrative regulation promulgated by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707.

2. Facilities collecting samples pursuant to this section may provide the required secure storage, sample destruction, and related activities, or may enter into agreements with other agencies qualified to do so, pursuant to administrative regulation.

3. All samples collected pursuant to this section shall be stored for at least ninety (90) days from the date of collection in accordance with the administrative regulation promulgated pursuant to this subsection.

4. Notwithstanding KRS 524.140, samples collected during exams where the victim chose not to report immediately or file a report within ninety (90) days after collection may be destroyed as set forth in accordance with the administrative regulation promulgated pursuant to this subsection. No hospital, sexual assault examination facility, or designated storage facility shall be liable for destruction of samples after the required storage period has expired.

### **KY. REV. STAT. ANN. § 346.200 (2011). SEXUAL ASSAULT VICTIM ASSISTANCE FUND**

(1) There is established in the State Treasury the sexual assault victim assistance fund to be administered by the Crime Victims' Compensation Board for the purpose of funding medical examinations for victims of sexual assault as provided in subsection (4) of this section and in KRS 216B.400. All moneys deposited or paid into the sexual assault victim assistance fund are appropriated and shall be available to the Crime Victims' Compensation Board. Funds shall be disbursed by the State Treasurer upon the warrant of the Crime Victims' Compensation Board.

(2) The sexual assault victim assistance fund may receive state general fund appropriations, gifts, grants, federal funds, or other public or private funds or donations. Any federal matching funds received by the



board or the crime victims' compensation fund for sexual assault victim assistance payments shall be deposited into the sexual assault victim assistance fund.

(3) Any unencumbered or unallocated balances in the sexual assault victim assistance fund shall be invested as provided in KRS 42.500(9). Any income earned from investment, along with the unallocated or unencumbered balances in the fund, shall not lapse and shall be deemed a trust and agency account available solely for the purposes specified in subsection (1) of this section.

(4) (a) For the purposes of this section, a children's advocacy center is a center as defined in KRS 620.020 that operates consistent with administrative regulations promulgated by the Cabinet for Health and Family Services.

(b) Upon receipt of a completed original claim form supplied by the board and itemized bill for a child sexual abuse medical examination performed at a children's advocacy center, the board shall reimburse the children's advocacy center for actual costs up to but not exceeding the amount of reimbursement established through administrative regulation promulgated by the Department for Medicaid Services.

(c) Independent investigation by the Crime Victims' Compensation Board shall not be required for payment of claims under this section; however, the board may require additional documentation as proof that the medical examination was performed.

(5) If sexual assault victim assistance funds are insufficient to pay claims under subsection (4) of this section or KRS 216B.400, payment shall be made from the Crime Victims' Compensation Fund.

## Louisiana

### **LA. REV. STAT. ANN. §40:2109.1 (2011). 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.

## **LA. ADMIN. CODE TIT. 22, § 503 (2011). LIMITS ON AWARDS**

### **A. General**

1. There will be a \$10,000 limit for awards for all victims with the exception of those primary victims who become totally and permanently disabled as a result of the crime. For those awards, the board may, at its discretion, award up to \$25,000, depending on availability of funds its administrative rule limits for certain award benefits, and the extent, if any, of collateral resources. For purposes of this Section:

- a. a victim is “totally and permanently disabled” if the victim has a physical or mental impairment that substantially precludes them from obtaining gainful employment and appears reasonably certain to continue without substantial improvement throughout their life;
  - b. the board reserves the right to obtain an impartial medical expert, at its expense, if necessary, to assess the degree of disability of the victim.
2. All applications filed as the result of the death of a victim will be assigned one claim number with the deceased listed as the primary victim. Each additional claimant and/or secondary victim must submit a separate application with the appropriate claim form(s) and supporting documents. The aggregate claims arising out of the same crime will be subject to the maximum amount authorized by law.

#### B. Attorney Fees

1. The board does not reimburse victims for fees charged by an attorney to prepare an application or represent the victim in any way unless the fees result from a hearing ordered by the board.
2. Those reimbursable charges are set at a maximum of \$50 per hour for a total of five hours or \$250.
3. The appeals process does not constitute a hearing. Thus, any fees charged by an attorney to represent a victim/claimant at an appeal are not compensable.

#### C. Funeral Expenses

1. The board will reimburse up to a maximum of \$5,000 to cover reasonable expenses actually incurred for the funeral, burial, or cremation. (effective January 1, 2009).
2. Death and/or burial insurance taken out specifically for the purpose of burial must pay first. The amount of life insurance proceeds paid is no longer considered as a collateral source for funeral expenses.

#### D. Lost Wages/Earnings

1. When lost wages are part of a claim, lost wages will be considered before out-of-pocket or other medical expenses are considered.
2. The inability to work must be directly related to the victimization and documented by the appropriate medical doctor. That medical opinion is subject to professional review and audit.
3. Violently assaulted victims who do not require medical intervention (i.e., doctor visit, emergency room treatment) will be allowed a reimbursable recuperation period:
  - a. if no sick time or other compensation is available, the board may grant up to five working days of lost wages;
  - b. wage verification by the employer is required.
4. The board may reimburse lost wages/earnings with a maximum of \$10,000.
  - a. The board will award up to \$320 per week based on net, after-tax, or take home pay.
  - b. If only gross income is provided, the board will award at 80 percent of gross up to the \$400 per week cap.
5. If workers' compensation or other private disability/income protection insurance is available, those policies must be paid out first before the board considers a claim for lost wages.
6. If a victim does not return to work, the lost wage period will be no longer than one year.
7. If a person is not gainfully employed or is not receiving entitlement at the time of the crime, then no lost wages can be determined nor awarded. However, an award for loss of wages based on seasonal, nonsalaried or intermittent work, or a bona fide offer of employment may be based on an average net anticipated salary for the period of employment.
8. Only the following list of physicians can legally determine physical disability:
  - a. medical doctor;
  - b. oral surgeon;
  - c. psychiatrist;
  - d. physiatrist;
  - e. ophthalmologist;
  - f. surgeon.

9. If a victim is initially treated by one doctor and that doctor refers the victim to another doctor, the referral doctor can determine disability from the date of the incident.

#### E. Loss of Support

1. For loss of support for a surviving spouse or other dependent to be considered, the following documentation must be provided:

- a. death certificate signed by the coroner;
- b. individual federal and state tax return for year before the crime to show dependency of claimant;
- c. employment/wage verification completed and signed by the victim's employer;
- d. verification of life insurance claimed by dependent filing application; and
- e. documentation that Social Security or other pension benefits are not available to surviving spouse or dependents.

2. Loss of support for a surviving spouse may be awarded at the discretion of the board when no other collateral resources exist and the inability to work exists or the opportunity to find work could be delayed due to age, frailty, and lack of previous work experience.

3. The board will reimburse loss of support with a maximum of \$10,000.

- a. The board may award loss of support up to the maximum amount per week authorized for lost wages in §503.D.4. That amount is based on net, after-tax, or take home pay.
- b. When only gross income is provided by a claimant, then the board will award the loss of support at 80 percent of the amount authorized in §503.D.4 for lost wages.

#### F. Ambulance

1. A maximum of \$300 for regular ambulance transport. A maximum of \$500 exists for air medical transport.

2. Air transport services are considered ambulance services and reimbursed as such.

3. The medical portion of the ambulance bill is to be considered as a medical cost and paid at the medical per cent consistent with all other claims for that claimant.

4. If the ambulance bill is part of the total hospital bill and the total hospital bill is under \$10,000, the ambulance transfer bills will be isolated and paid separately. If the total bill is over \$10,000, the ambulance charges will not be isolated for payment.

#### G. Medical Expenses

1. The board reserves the right to audit any and all billings associated with medical care. All treatment must be considered "usual and customary" and be directly related to the victimization.

2. The board will not pay any interest, finance, or collection fees as part of the claim process.

3. The board will pay 70 percent of all outstanding charges after any third-party payment sources up to the statutory limits.

4. If the total outstanding charges exceed the case cap of \$10,000, then all providers listed in the claim will be paid out at that actual percentage those bills are in relation to the available case funds.

5. Out-of-pocket paid monies will be reimbursed to the victim prior to applying this payment schedule.

6. Psychiatric Inpatient Hospitalization. It is the opinion of the board that any psychiatric inpatient hospitalization required by a crime victim would be very acute and crisis management in scope.

Compensation for such care will require a peer review as described in §503.I.3.

a. The board will not reimburse for more than seven days of psychiatric inpatient hospitalization at a cost of no more than \$700 per day. This is intended for an acute hospitalization with the goals of emotional stabilization and placement in outpatient treatment.

b. The board will not reimburse more than one psychological evaluation (as defined in §503.I.5).

i. The board will not reimburse for any intake evaluation or psychological testing.

ii. The board will not reimburse for any more than one in-patient treatment, group or individual, per day.

Support or family day sessions and "community" meetings are not reimbursable.

iii. All provider/therapist/s charges are reimbursed at the same hourly rate as out-patient mental health services, that is:

(a). M.S./M.S.W. (O.P.C./B.C.S.W.): \$75/hour

(b). Ph.D./M.D. (Board Certified): \$85/hour

(c). Group therapy: \$30/session

c. Therapeutic groups outside the per diem charge of the hospital will not be reimbursed.

d. All therapist charges that are outside the per diem charge of the hospital will be limited to no more than one session per day at a rate described in §503.I.8.

7. Only those medicines and drugs prescribed by a licensed physician are compensable.

8. Reimbursable providers include licensed medical doctors, dentists, eye doctors, chiropractors, osteopaths, pediatricians, psychiatrists, psychologists, physical therapists, etc.

9. Compensable medical services include emergency ambulance service, medical examinations, X-ray and laboratory services, whirlpool baths ordered by a doctor.

10. Only services of a nurse as prescribed by a licensed physician are compensable.

11. Aids such as hearing aids, false teeth, eyeglasses, contact lenses, crutches, and wheelchairs needed as a direct result of the crime or that were damaged or destroyed during the crime are compensable.

H. Travel Expenses. Transportation costs other than the initial ambulance services are reimbursable only when required medical care is not locally available. Certification is required by the physician of record that local medical care is unavailable. Allowable private vehicle mileage for out-of-town travel is reimbursed at the rate published in the current state travel regulations.

#### I. Mental Health Counseling

1. It is the board's opinion that the majority of those directly victimized by violent crime (e.g., primary victims) can obtain significant improvement within the first six months of qualified counseling. The board recognizes that short-term crisis management counseling may also be needed for secondary victims (defined as primary family members or cohabitators of the victim).

2. Reimbursement of mental health services is limited to six months from the date of the first visit or after the first 26 qualified sessions/groups (whichever comes first).

3. Cases which extend beyond the allowable time limit will be subject to a peer review by a psychiatrist or psychologist, licensed by the state of Louisiana, consulting with the board. Peer review will involve an examination of the following:

a. complete progress notes for crime-related condition(s) being treated;

b. any psychological evaluations/testing pertaining to the crime-related condition;

c. description of prior conditions or treatments;

d. current treatment and treatment response to date; and

e. updated treatment plan.

#### 4. Limits on Charges

a. For the life of each claim, reimbursable charges may not exceed \$2,500. These limits include the cost of all treatment services and psychological or neuropsychological evaluations/testing as described in §503.I.8. Victims/claimants may apply for an additional \$2,500 in reimbursement when there is a documented need for long-term mental health services.

b. All applications for extended reimbursement will require a formal psychological or neuropsychological evaluation/testing that clearly documents the need for extended mental health treatment.

c. All applications for extended reimbursement of mental health expenses are subject to peer review by a psychiatrist or psychologist, licensed by the state of Louisiana, consulting with the board.

#### 5. Limits on Evaluation/Testing

a. Psychological evaluation/testing may not exceed \$800 and neuropsychological evaluation/testing may not exceed \$1,500.

b. Any evaluation/testing must be conducted by a licensed psychologist and should include the following:

- i. description of any structured interview used;
  - ii. description and results of testing administered;
  - iii. case formulation and DMS-IV diagnoses.
- c. case formulation and DSM-IV diagnoses.
6. Treatment plans completed by the therapist of record (or primary therapist) are required for consideration of mental health expenses. The therapist must show that the psychological condition being treated is a direct result of the crime. Treatment plans must be fully documented in a “problem” and “intervention” format. Detail must be provided for both symptom and intervention. Single word descriptors such as “nightmares” or “supporting counseling” will not suffice. Insufficient treatment plans will be returned to the therapist and the case may be deferred or denied until revised.
7. All payments for services are subject to review and audit by the board.
8. Rates for Reimbursement
- a. Only physicians, psychiatrists, state certified or state licensed psychologists, licensed professional counselors, or board-certified social works are eligible for reimbursement.
  - b. The rates for reimbursement shall be:
    - i. M.D./Psychiatrists \$85/hour;
    - ii. Ph.D. or Psy.D. Licensed Psychologists; \$85/hour
    - iii. Licenses Professional Counselors \$75/hour;
    - iv. Board-Certified Social Worker \$75/hour;
    - v. Group Therapy Rates (90 minute) \$30/session.
9. It is the board's assessment that psychiatric inpatient hospitalization of crime victims is rarely required. If under unusual circumstances such treatment is required, compensation will be subject to a peer review as previously described. Reimbursement for such treatment is limited in amounts and procedures listed under “medical” services.
10. Any claim for injuries sustained may be denied if prescribed or preempted as a matter of law.

#### J. Catastrophic Property Loss

- 1. A maximum of \$10,000 may be awarded if a victim's abode is owned and the abode/contents are destroyed by criminal act.
- 2. This must produce a “verifiable” overwhelming financial effect for that person.
- 3. This is considered when no insurance exists or the ability to rehabilitate the structure is precluded due to lack of personal resources.

#### K. Vehicular Incidents

- 1. Eligible expenses include those resulting from death or personal injury as outlined in the statute if they are incurred resulting from DWI or hit and run offenses, fleeing felon incidents, or injuries intentionally inflicted with a motor vehicle, boat or aircraft.
- 2. Vehicular accident related injuries, other than those caused by the above are not compensable.

#### L. Child Care Expenses

- 1. A maximum of \$1,500 may be paid for each eligible child care claim.
- 2. The board may award up to \$100 per week per child, up to a maximum of \$200 per week per family.
- 3. The service provider need not be licensed; however, if the provider is not licensed, the board will pay up to 50 percent of the standard rate.

#### M. Crime Scene Evidence

- 1. Expenses associated with the collection and securing of crime scene evidence are limited to:
  - a. reasonable replacement costs for clothing;
  - b. bedding; or
  - c. property seized as evidence or rendered unusable as a result of a criminal investigation or lab test.

2. A forensic medical examination for a victim of sexual assault is considered an expense associated with the collection and securing of crime scene evidence. Payment for this examination by the parish governing authority is mandated by state law. All other expenses related to these crimes are eligible for reimbursement by the board at 100 percent, subject to the provisions of the Crime Victims Reparations Act and its administrative rules.

#### N. Crime Scene Cleanup

1. Crime scene cleanup means the removal or attempted removal of blood, stains, odors, broken glass, impurities or other debris caused by the crime or the processing of the crime scene where the crime occurred.

2. Expenses for crime scene cleanup may not exceed total costs of \$2500.

3. Types of allowable expenses for clean up include:

- a. equipment rental;
- b. disinfecting and cleaning supplies;
- c. professional cleaning services insured for that purpose.

4 Expenses for crime scene cleanup cannot be used for:

- a. property repair;
- b. replacement of personal property;
- c. costs not directly billed to victim and/or claimant.

#### O. Loss of Support for Child Victim in Sexual Crimes

1. Loss of support may be paid on behalf of a child victim of a sexual offense if the offender was providing support through employment or a benefits program before the date the crime was committed.

2. Claimant qualifications:

- a. must be a parent, or legal guardian of the minor child(ren);
- b. must provide documented proof that offender supported the home and minor child victim;
- c. is only eligible if the offender is incarcerated.

3. The board may award loss of support up to:

- a. \$7500 maximum per victim;
- b. maximum amount per week for loss of support is the same authorized for lost wages in §503.D.4.

### **LA. REV. STAT. ANN. §15:621 (2011). 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).

## Maine<sup>2</sup>

### **ME. REV. STAT. ANN. TIT. 5, § 3360-M (2011). PAYMENT FOR FORENSIC EXAMINATIONS FOR ALLEGED VICTIMS OF GROSS SEXUAL ASSAULT**

1. Payment. The board shall pay the costs of forensic examiner training as well as the costs of forensic examinations for alleged victims of gross sexual assault from the Victims' Compensation Fund. The board shall track expenditures for forensic examinations separately from all other expenditures. Forensic examination payments are not subject to any other provision of this chapter.

2. Forensic examination; forensic examiner training and education. The board shall determine by rule what a forensic examination may include for purposes of payment. An examination must include at least all services directly related to the gathering of forensic evidence and related testing and treatment for pregnancy and sexually transmitted diseases. The board shall pay a licensed hospital or licensed health care practitioner the actual cost of the forensic examination up to a maximum of \$750. The cost of sexual assault forensic examiner training and education provided by the sexual assault forensic examiner program must be paid from the Victims' Compensation Fund in an amount that may not exceed \$50,000 per year.

3. Process for payment. A licensed hospital or licensed health care practitioner that performs forensic examinations for alleged victims of gross sexual assault shall submit a bill to the Victims' Compensation Board directly for payment of the forensic examinations. The hospital or health care practitioner that performs a forensic examination shall take steps necessary to ensure the confidentiality of the alleged victim's identity. The bill submitted by the hospital or health care practitioner may not identify the alleged victim by name but must be assigned a tracking number that corresponds to the forensic examination kit. The tracking number may not be the alleged victim's social security number. The hospital or health care practitioner that performs the examination may not bill the alleged victim or the alleged victim's insurer, nonprofit hospital or medical service organization or health maintenance organization for payment of the examination. The alleged victim is not required to report the alleged offense to a law enforcement agency.

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<sup>2</sup> Maine also includes statutes, specifically related to payment of sexual assault forensic examinations for minors. ME. REV. STAT. ANN. tit. 22, § 1507 (2011); ME. REV. STAT. ANN. tit. 22, § 1823 (2011); ME. REV. STAT. ANN. tit. 32, § 2595 (2011).



4. Other reimbursement. The fact that forensic examinations are paid for separately through the Victims' Compensation Fund does not preclude alleged victims of gross sexual assault from seeking reimbursement for expenses other than those for the forensic examination. A victim seeking reimbursement from the Victims' Compensation Fund for expenses other than the forensic examination is subject to all other provisions of this chapter.

5. Rules. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [FN1]

**ME. REV. STAT. ANN. TIT. 24, § 2986 (2011). PERFORMING FORENSIC EXAMINATIONS FOR ALLEGED VICTIMS OF GROSS SEXUAL ASSAULT**

1. Standard forensic examination kit. All licensed hospitals and licensed health care practitioners shall use a standard forensic examination kit developed and furnished by the Department of Public Safety pursuant to Title 25, section 2915 to perform forensic examinations for alleged victims of gross sexual assault.

2. Victims' Compensation Board billing. All licensed hospitals and licensed health care practitioners that perform forensic examinations for alleged victims of gross sexual assault shall submit a bill to the Victims' Compensation Board directly for payment of the forensic examinations. The Victims' Compensation Board shall determine what a forensic examination includes pursuant to Title 5, section 3360-M. The hospital or health care practitioner that performs a forensic examination shall take steps necessary to ensure the confidentiality of the alleged victim's identity. The bill submitted by the hospital or health care practitioner may not identify the alleged victim by name but must be assigned a tracking number that corresponds to the forensic examination kit. The tracking number may not be the alleged victim's social security number. The Victims' Compensation Board shall pay the actual cost of the forensic examination up to a maximum of \$750. Licensed hospitals and licensed health care practitioners that perform forensic examinations for alleged victims of gross sexual assault may not bill the alleged victim or the alleged victim's insurer, nonprofit hospital or medical service organization or health maintenance organization for payment for the examination.

3. Completed kit. If the alleged victim has not reported the alleged offense to a law enforcement agency when the examination is complete, the hospital or health care practitioner shall then notify the nearest law enforcement agency, which shall transport and store the completed forensic examination kit for at least 90 days. The completed kit may be identified only by the tracking number. If during that 90-day period an alleged victim decides to report the alleged offense to a law enforcement agency, the alleged victim may contact the hospital or health care practitioner to determine the tracking number. The hospital or health care practitioner shall provide the alleged victim with the tracking number on the forensic examination kit and shall inform the alleged victim which law enforcement agency is storing the kit. If the alleged victim reports the alleged offense to a law enforcement agency by the time the examination is complete, the investigating agency shall retain custody of the forensic examination kit.

If an examination is performed under subsection 5 and the alleged victim does not, within 60 days, regain a state of consciousness adequate to decide whether or not to report the alleged offense, the State may file a motion in the District Court relating to storing or processing the forensic examination kit. Upon finding good cause and after considering factors, including, but not limited to, the possible benefits to public safety in processing the kit and the likelihood of the alleged victim's regaining a state of consciousness adequate to decide whether or not to report the alleged offense in a reasonable time, the District Court may order either that the kit be stored for additional time or that the kit be transported to the Maine State Police Crime Laboratory for processing, or such other disposition that the court determines just. In the interests of justice

or upon motion by the State, the District Court may conduct hearings required under this paragraph confidentially and in camera and may impound pleadings and other records related to them.

4. Other payment. A licensed hospital or licensed health care practitioner is not precluded from seeking other payment for treatment or services provided to an alleged victim that are outside the scope of the forensic examination.

5. Implied consent. If an alleged victim of gross sexual assault is unconscious and a reasonable person would conclude that exigent circumstances justify conducting a forensic examination, a licensed hospital or licensed health care practitioner may perform an examination in accordance with the provisions of this section.

A forensic examination kit completed in accordance with this subsection must be treated in accordance with Title 25, section 3821 and must preserve the alleged victim's anonymity. In addition, the law enforcement agency shall immediately report to the district attorney for the district in which the hospital or health care practitioner is located that such a forensic examination has been performed and a forensic examination kit has been completed under this subsection.

6. Liability. A licensed hospital or licensed health care practitioner in the exercise of due care is not liable for an act done or omitted in performing a sexual assault forensic examination under this section.

### **ME. REV. STAT. ANN. TIT. 30-A, § 287 (2011). PHYSICAL EXAMINATION OF CRIME VICTIMS**

1. Payment of expenses by district attorney. Except as provided in subsection 2, in all cases reported to a law enforcement officer of sexual crimes against minors or assault when serious bodily injury has been inflicted, the office of the district attorney of the county in which the alleged crime occurred shall pay the expenses of a physical examination of the victim conducted for the purpose of obtaining evidence for the prosecution. Pursuant to Title 5, section 3360-M, the Victims' Compensation Board shall pay the expenses of forensic examinations for alleged victims of gross sexual assault.

2. Limitation. The district attorney is required to pay the expenses for the physical examination of a victim in accordance with subsection 1 only in the absence of medical insurance or other 3rd-party coverage of the expenses of examination and only from a fund or account appropriated for that purpose. The office of the district attorney is not liable for the payment of any charges, costs or fees for an examination under subsection 1 until the district attorney has received copies of all reports and records pertaining to the examination, if the copies have been requested.

2-A. Drug and alcohol testing. Notwithstanding subsections 1 and 2 and Title 5, section 3360-M, the district attorney shall pay the expense of any analysis of a drug or alcohol test performed as part of a forensic examination of an alleged victim of gross sexual assault when the purpose of the analysis is to obtain evidence for the prosecution.

3. Medical personnel not liable for furnishing reports, records or testimony. A physician, nurse, hospital, clinic or any other person, firm or corporation attending a victim under subsection 1 is not liable in damages or otherwise for providing reports or records, copies of reports or records or for their testimony relating to any examination performed under this section when those reports, records or testimony are provided to a district attorney, a law enforcement officer or a court for the purpose of prosecuting the alleged crime, whether or not the reports, records or testimony are provided with the written authorization of the victim examined under this section.

4. Repealed. Laws 1999, c. 719, § 8, eff. Nov. 1, 2000.

## **26-550 ME. CODE ANN. R. § 1 (2011). EXAMINATIONS FOR GROSS SEXUAL ASSAULTS**

1. Maine licensed medical facilities and licensed health care practitioners shall be reimbursed from the Victims' Compensation Fund for forensic examinations performed on alleged victims of gross sexual assault in accordance with these Rules. "Gross Sexual Assault" has the meaning as found in Title 17-A sec. 253. "Alleged victim" means any person who alleges that he or she is a victim of gross sexual assault and any person who is unconscious or incapacitated due to mental disease, disorder or defect and is identified by law enforcement or a health care practitioner as the victim of gross sexual assault. The maximum payment by the Fund for the forensic assault examination shall not exceed the statutory maximum of \$500.00.

A. To be eligible for payment, the gross sexual assault forensic examination must include at least all services directly related to the gathering of forensic evidence and related testing and treatment for pregnancy and sexually transmitted diseases. Licensed hospital and licensed health care practitioners must have available and offer to provide at least the following tests and treatments:

(1) Professional/practitioner's services

history

Physical

Collection of specimens

Treatment for the prevention of sexually transmitted infection

(2) Emergency department

Emergency room, clinic room or office room fee

Pelvic tray

(3) Laboratory

Fixed smear for sperm

Blood testing for syphilis and Hepatitis B

HIV test

Cultures for gonorrhea, chlamydia, trichomonas and other sexually transmitted diseases (STD)

(4) Pregnancy testing (blood test or urinalysis)

(5) Other laboratory tests that are required for the purpose of evidentiary examination

(6) Medications

Pregnancy prophylaxis

Sexually transmitted disease prophylaxis

One dose sedative, antidepressant or tranquilizer

Anti-emetic

The tests and treatments performed shall be based on each patient's individual need and preference. If performed by a licensed hospital or licensed health care practitioner, any of these listed tests and treatments may be billed as part of the forensic examination.

B. For purposes of reimbursement, all services directly related to the gathering of forensic evidence and initial testing and treatment for pregnancy and sexually transmitted diseases constitute the sexual assault forensic examination.

## **26-550 ME. CODE ANN. R. § 3 (2011). PAYMENT FOR FORENSIC EXAMINATIONS FOR ALLEGED VICTIMS OF GROSS SEXUAL ASSAULT**

1. A victim seeking examination and treatment following a gross sexual assault shall be exempted from the payment of expenses incurred as a result of sexual assault forensic examination services. The licensed hospital or licensed health care practitioner may bill the patient or patient's insurer for services outside the

scope of the forensic examination. A victim may apply to the Victims' Compensation Board for reimbursement for losses outside the scope of the gross sexual assault forensic examination.

2. The Victims' Compensation Board shall pay the costs of forensic examinations for alleged victims of gross sexual assault from the Victims' Compensation Fund. To be reimbursable an examination must incorporate the use of a uniform standardized forensic examination kit distributed by the Department of Public Safety, and that use must have a forensic basis. If at any time a uniform kit is not available for distribution, the licensed hospital or licensed health care practitioner must use a standardized evidence collection kit that has met the requirements established by rule of the Department of Public Safety. The maximum payment by the fund for a forensic examination shall not exceed the statutory maximum of \$500.00. The Board may delegate to the director of the Victims' Compensation Board the review of claims and approval of reimbursement for services included in forensic examinations in accord with rules and guidelines established by the Victims' Compensation Board. Payments from the Compensation Fund shall be made directly to the licensed hospital or licensed health care practitioner and shall be considered payment in full and shall bar balance billing or other actions for collection.

A. Upon completion of a gross sexual assault forensic examination the licensed hospital or licensed health care practitioner shall submit an itemized bill detailing the treatment costs and examination costs for collection of evidence required by the Department of Public Safety. Claims will be paid only where the sexual assault procedures as required by 24 MRSA §2986, 25 MRSA §2915, 25 MRSA §3821, and 5 MRSA §3360-M for forensic examinations and treatment are followed.

B. In the event that there are multiple fees from separate service providers, the statutory maximum shall be allocated among the service providers.

C. The licensed hospital or licensed health care practitioner to receive reimbursement is responsible for submitting to the Victims' Compensation Board (on forms approved by the Board) the following information:

- (1) Victim tracking number
- (2) Examination kit number
- (3) Victim's date of birth
- (4) Victim's gender
- (5) Date and time of incident
- (6) Location of incident (Town)
- (7) Date and time of treatment by medical provider
- (8) Whether a report to law enforcement was filed
- (9) Name of law enforcement agency notified
- (10) Name and address of medical provider
- (11) Hospital / Practitioner Federal Tax Identification Number
- (12) Provider billing office contact person and phone number
- (13) Signed verification from the licensed health care practitioner
- (14) All itemized copies of medical bills complete with current procedural terminology (CPT) codes.

This billing statement must show individual charges for lab work as listed in 1A of this rule.

D. The licensed medical facility or licensed practitioner must send the reimbursement form with the attached itemized bills to the Victims' Compensation Board.

E. All claims must be submitted to the Board within 60 days of examination.

26-550 CMR Ch. 8, § 3, ME ADC 26-550 Ch. 8, § 3  
Current through September 30, 2011

**ME. REV. STAT. ANN. TIT. 25, §2915 (2011). UNIFORM FORENSIC EXAMINATION KIT FOR EVIDENCE COLLECTION IN ALLEGED CASES OF GROSS SEXUAL ASSAULT**

1. Development of uniform forensic examination kit. The Department of Public Safety shall determine by rule what constitutes a uniform standardized forensic examination kit for evidence collection in alleged cases of gross sexual assault. The rules must define the contents of the kit, instructions for administering the kit and a checklist that examiners must follow and enclose in the completed kit.

2. Use of uniform forensic examination kit. A licensed hospital or licensed health care practitioner that conducts physical examinations of alleged victims of gross sexual assault shall use the uniform standardized forensic examination kit developed by the Department of Public Safety pursuant to subsection 1. A health care practitioner who conducts physical examinations of alleged victims of gross sexual assault must be trained in the proper evidence collection procedures for conducting a forensic examination.

Evidence collection results may not be excluded as evidence in any proceeding before any court of this State as a result of the examiner's failure to use the standardized evidence collection kit or as a result of the examiner's failure to be trained in the proper procedures for the collection of evidence required by this subsection.

3. Furnishing of uniform forensic examination kit. The Department of Public Safety shall furnish the uniform forensic examination kits to licensed hospitals and licensed health care practitioners that perform forensic examinations of alleged victims of gross sexual assault.

4. Rules. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**ME. REV. STAT. ANN. TIT. 25, § 3821 (2011). TRANSPORTATION AND STORAGE OF FORENSIC EXAMINATION KITS**

If an alleged victim of gross sexual assault has a forensic examination and has not reported the alleged offense to a law enforcement agency when the examination is complete, the licensed hospital or licensed health care practitioner that completed the forensic examination shall notify the nearest law enforcement agency. That law enforcement agency shall transport the completed kit, identified only by a tracking number assigned by the hospital or health care practitioner, to its evidence storage facility. The law enforcement agency shall store the kit for at least 90 days from the time of receipt. If during that 90-day period the alleged victim reports the offense to a law enforcement agency, the investigating agency shall take possession of the kit

In the case of a forensic examination performed under Title 24, section 2986, subsection 5, the law enforcement agency must immediately notify the district attorney for the district in which the hospital or health care practitioner is located that such a forensic examination has been performed and a forensic examination kit has been completed under Title 24, section 2986, subsection 5.

**16-222 ME. CODE CH. 20 (2011). REFS & ANNOS UNIFORM STANDARDIZED FORENSIC EXAMINATION KIT FOR GROSS SEXUAL ASSAULT EVIDENCE COLLECTION**

SUMMARY: This chapter defines the uniform forensic examination kit to be used by licensed hospitals and health care practitioners for evidence collection in alleged cases of gross sexual assault.

Purpose: This rule will define the contents of the uniform standardized examination kit to be used for forensic evidence collection in alleged cases of gross sexual assault. The rule will list the contents of the kit, include instructions for administering the kit, and will include a checklist for examiners to follow and enclose with the completed kit.

## Maryland

### MD. CODE ANN., HEALTH – GEN. § 15-127 (2011). RAPE AND ABUSE VICTIM SERVICE

#### Definitions

- (a)(1) In this section the following words have the meanings indicated.
- (2) “Child” means any individual under the age of 18 years.
- (3) “Initial assessment” includes:
  - (i) A psychological evaluation;
  - (ii) Parental interview; and
  - (iii) Medical evaluation.
- (4)(i) For purposes of this section, “sexual abuse” means any act that involves sexual molestation or exploitation of a child whether or not the sexual molestation or exploitation of the child is by a parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, or by any household or family member.
- (ii) “Sexual abuse” includes:
  - 1. Incest, rape, or sexual offense in any degree;
  - 2. Sodomy; and
  - 3. Unnatural or perverted sexual practices.

#### Costs for providing services

- (b) If a physician or a hospital provides any of the services described in subsection (c) of this section to a victim of an alleged rape or sexual offense or a victim of alleged child sexual abuse, the services shall be provided without charge to the individual and the physician or hospital is entitled to be paid by the Department for the costs of providing the services.

#### Applicable services

- (c) The services to which this section applies are:
  - (1) A physical examination to gather information and evidence as to the alleged crime;
  - (2) Emergency hospital treatment and follow-up medical testing for up to 90 days after the initial physical examination in paragraph (1) of this subsection; and
  - (3) For up to 5 hours of professional time to gather information and evidence as to the alleged sexual abuse, an initial assessment of a victim of alleged child sexual abuse by:
    - (i) A physician;
    - (ii) Qualified hospital health care personnel;
    - (iii) A mental health professional; or
    - (iv) An interdisciplinary team expert in the field of child abuse.

#### Immunity from liability

- (d)(1) A physician who examines a victim of alleged child sexual abuse under the provisions of this section is immune from any civil liability that may result from the failure of the physician to obtain consent from the child's parent, guardian, or custodian for the examination or treatment of the child.
- (2) The immunity extends to:

- (i) Any hospital with which the physician is affiliated or to which the child is brought; and
- (ii) Any individual working under the control or supervision of the hospital.

### **MD. CODE REGS. 07.01.16.05 (2011). PROGRAM SERVICES.**

A. The local program shall offer services that directly benefit the crime victim. These services may include, but are not limited to, the following:

- (1) Crisis intervention services that meet urgent emotional or physical needs of crime victims. Crisis intervention services may include the operation of a 24-hour hotline that provides counseling or referral for crime victims.
- (2) Emergency services that:
  - (a) Provide temporary shelter for crime victims who cannot safely remain in their current lodgings;
  - (b) Offer measures such as repair of locks or boarding up of windows to prevent the immediate reburglarization of a home or an apartment; or
  - (c) Provide crime victims petty cash for meeting immediate needs related to transportation, food, shelter, and other necessities.
- (3) Support services that include:
  - (a) Follow-up counseling for other than crisis reactions, reassurance and empathetic listening, and guidance for resolving practical problems created by the experience of victimization;
  - (b) Acting on the crime victim's behalf vis-a-vis other social services and criminal justice agencies;
  - (c) Assistance in obtaining the swift return of property being kept by police as evidence;
  - (d) Intervention, as appropriate, with landlords or employers; and
  - (e) Referral to other sources of assistance, as needed.
- (4) Court-related services that assist crime victims in participating in criminal justice proceedings including transportation to court, child care, and accompaniment services.
- (5) Payment of all reasonable costs for a forensic examination of a victim of sexual assault/abuse, to the extent that these costs are not otherwise reimbursed or paid by third parties. Funds may only be used to pay for those forensic examinations that conform to standards adopted by the State or meet the evidentiary requirements of the local prosecutor.
- (6) Training for those individuals, salaried or volunteer staff, who provide direct services to crime victims, which may include personnel employed by criminal justice, social services, mental health, or related agencies.
- (7) Printing and distribution of brochures and similar announcements describing the direct services available and how to obtain a program's assistance, and similar public notification efforts intended to recruit volunteers.

B. The local program shall assist victims in seeking available crime victims' compensation benefits. This assistance may be achieved by identifying and notifying potential recipients of the compensation program and assisting them with the application forms and procedures.

C. The local program shall promote coordinated public and private efforts to aid crime victims within the community served.

### **MD. CODE REGS. 10.12.02.05 (2011). REIMBURSEMENTS.**

A. Restrictions. A provider:

- (1) May not charge the victim or the victim's family of an alleged rape, sexual offense, or child sexual abuse for a physical examination or an initial assessment for the purpose of establishing and gathering information

and evidence as to the alleged crime or for emergency hospital treatment and follow-up medical testing performed up to 90 days after the initial physical examination;

(2) May not bill a victim of an alleged rape, sexual offense, or child sexual abuse, or the victim's family or private insurance, for any difference between charges and Department reimbursement; and

(3) Shall accept the Department's reimbursement as payment in full.

#### B. Physicians Providing Services to Victims of Alleged Rape or Sexual Offense.

(1) The Department shall pay a physician the physician's usual and customary fee not to exceed \$80 for examination and collection of evidence, if the following are submitted to the Department of Health and Mental Hygiene, Center for Health Promotion, 300 West Preston Street, Suite # 410, Baltimore, MD 21201:

(a) The forms found in the Maryland State Police sexual assault kit, or comparable evidence collection kit, which are:

(i) Filled out completely;

(ii) Typed or legibly written;

(iii) Signed and dated by the examining physician; and

(iv) Bearing the police central complaint number or a similar police case identifier or a property-held number in accordance with Regulation .03B(1)(b) of this chapter; and

(b) A completed DHMH form 2923, as developed by the Department, containing the signature of the victim or the victim's representative, indicating informed consent for medical examination, collection of evidence, and release of information.

(2) The Department shall pay the physician's usual and customary fee for consultation and for rendering emergency hospital treatment and necessary follow-up medical testing obtained within 90 days of the initial physical examination, for injuries sustained as a result of alleged rape or sexual assault.

(3) If there is a physician's fee component in the emergency room rate as established by the Health Services Cost Review Commission, there is no additional payment for the physician.

#### C. Physicians Providing Services to Victims of Alleged Child Sexual Abuse.

(1) The Department shall pay a physician the physician's usual and customary fee or the customary fee of those individuals under the physician's supervision, qualified to participate in the gathering of information and evidence through an initial assessment as defined under Regulation .02B of this chapter, not to exceed \$80 per hour for up to 5 hours. The Department shall pay a physician only if a report:

(a) Is filled out completely as to the assessment done;

(b) Is typed or legibly written;

(c) Is signed and dated by the physician or cosigned by the physician and other qualified professionals providing services;

(d) Includes the police central complaint number, a property-held number, or other case identifier; and

(e) Includes either a completed DHMH Form 2923 or 4456, as developed by the Department.

(2) If there is a physician's fee component in the emergency room or outpatient clinic rate as established by the Health Services Cost Review Commission, there is no additional payment for the physician.

D. Hospital. The Department shall pay the established rate as determined by the Health Services Cost Review Commission for the use of the emergency room or outpatient clinic and the daily in-hospital rate in case of hospitalization for physical injuries directly resulting from the alleged sexual assault or abuse.

E. Laboratory. The Department shall pay the established rate as defined by the Health Services Cost Review Commission for laboratory tests necessary to establish and gather information and evidence of the crime, and for screening of the victim for pregnancy and sexually transmitted infections.

#### F. Billing.



- (1) Except as provided in §F(3) of this regulation, in order to get paid a provider shall submit itemized bills to the Department within 90 days of the rendering of care.
- (2) If a provider submits a bill more than 90 days but less than 180 days after the initial physical examination, the provider shall submit a written request for payment stating the specific reasons why the itemized bills were not timely submitted in accordance with §F(1) of this regulation.
- (3) The Department may pay bills received more than 90 days but less than 180 days after the initial physical examination if the Department determines that the provider has set forth a legitimate explanation for not submitting the bill within 90 days of rendering care.
- (4) To identify the alleged sexual offense, a bill submitted by a provider under this chapter shall contain:
  - (a) A police central complaint number or other case identifier; or
  - (b) A property-held number assigned in accordance with Regulation .03B(1)(b)(ii) of this chapter when there is no police central complaint number or similar police case identifier because a criminal prosecution is not being pursued.
- (5) The provider of services shall secure signed informed consent for examination and collection of evidence in cases of alleged rape or sexual offense with authorization for release of information on such forms (DHMH form 2923 or form 4456) as are developed by the Department. The providers shall supply the Department with any information requested concerning services rendered.

G. Payment under this chapter is contingent on the availability of funds according to State Finance and Procurement Article, §§7-234 and 7-235, Annotated Code of Maryland.

### **MD. CODE REGS. 10.12.02.03 (2011). ALLEGED RAPE OR SEXUAL OFFENSE VICTIM CARE.**

A. The victim shall be considered an emergency patient with special needs. The victim shall be taken immediately to a quiet private area where tests and examinations will be performed on the victim. The following measures are indicated under certain circumstances:

- (1) Prophylactic medication shall be discussed and offered to the victim who is at risk for pregnancy as a result of the alleged rape or sexual assault;
- (2) Prophylactic medication shall be discussed and offered to the victim who is at risk for sexually transmitted infections and recommended initial tests and follow-up tests shall be performed, if indicated;
- (3) After the victim has been properly informed as to the significance of testing for the presence of the human immunodeficiency virus (HIV), the victim shall be referred to the appropriate anonymous or confidential, and free HIV counseling and test sites for potential baseline and follow-up testing and support services;
- (4) Injuries suffered by the victim shall be treated with appropriate consultation, as necessary; and
- (5) Tetanus prophylaxis may be administered, if indicated.

B. Sexual Assault.

- (1) A sexual assault forensic examination shall be performed if:
  - (a) The victim is seen within 120 hours of the alleged sexual offense; and
  - (b) Either:
    - (i) A police report has been filed with the appropriate law enforcement jurisdiction; or
    - (ii) A property-held number is assigned to the case in the event that a victim does not wish to file a police report immediately but still seeks to have evidence collected and held.
- (2) A sexual assault forensic examination shall be performed only by a:
  - (a) Physician; or
  - (b) Forensic nurse examiner.
- (3) When performing a sexual assault forensic examination, a physician or a forensic nurse examiner shall use the Maryland State Police victim sexual assault evidence collection kit or a comparable evidence collection kit and shall follow the kit instructions including:

- (a) Packaging the victim's clothing in paper bags; and
- (b) Collecting the following specimens:
  - (i) Blood sample (lavender cap);
  - (ii) Vaginal swabs (a minimum of four);
  - (iii) Oral swabs (a minimum of two);
  - (iv) Pubic hair combings;
  - (v) Pulled pubic hair;
  - (vi) Pulled head hair; and
  - (vii) If indicated, anal swabs, bite mark swabs, and fingernail scrapings.

C. A physician or forensic nurse examiner shall follow the procedures as indicated to establish evidence of alleged rape or sexual offense, depending on the specifics of the crime as described by the victim:

- (1) Obtain from each of the following areas, if indicated, a smear to be fixed and stained according to the Papanicolaou technique:
  - (a) Endocervical canal;
  - (b) Vaginal pool;
  - (c) Vulva;
  - (d) Mouth; and
  - (e) Anal area;
- (2) Obtain culture for gonorrhea from cervix, rectum, and nasopharynx, if indicated, and plate it immediately;
- (3) Obtain vaginal, oral, or rectal aspirate for acid phosphatase testing, if indicated;
- (4) Obtain a blood sample for syphilis testing and refer patient to a healthcare provider of choice for repeat sample in 4-6 weeks;
- (5) Obtain X-rays necessary to establish evidence of physical injuries sustained as a direct result of the alleged rape or sexual offense; and
- (6) Obtain either a urine sample or a blood sample for beta subunit of human chorionic gonadotropin for a pregnancy test and recommend and refer the victim to a healthcare provider of choice for a second test in 4-6 weeks, if indicated.

D. A physician or forensic nurse examiner shall submit the evidence collected to the appropriate law enforcement jurisdiction.

## Massachusetts

### 940 MASS. CODE REGS. 14.05 (2011). ELIGIBILITY REQUIREMENTS

A person eligible for compensation must satisfy each of the following conditions:

- (1) Reporting of Crime to Law Enforcement Authorities: A claimant must demonstrate that the crime for which he or she seeks compensation was reported to police or other law enforcement authorities, or to an agency or entity obligated by law to report complaints of criminal misconduct to law enforcement authorities.
  - (a) Law enforcement authorities to whom a crime may be reported include: federal, state or local police; school, college or university police; housing authority police; or the M.B.T.A. police.
  - (b) Crimes involving minor victims may be reported to the Department of Children and Families pursuant to the reporting requirements of M.G.L. c. 119, § 51A. Crimes involving elder victims may be reported to the Department of Elder Affairs pursuant to the reporting requirements of M.G.L. c. 19A, § 15. Crimes involving

disabled victims may be reported to the Disabled Persons Protection Commission pursuant to M.G.L. c. 19C, § 4. Crimes occurring in correctional facilities may be reported to the superintendent of the correctional institution pursuant to M.G.L. c. 127, § 38C. All other crimes must be reported to law enforcement authorities specified in 940 CMR 14.05(1)(a), (c) or (d).

(c) The reporting of a crime to a court through a citizen application for a restraining order under M.G.L. c. 209A, and M.G.L. c. 258E, accompanied by an affidavit in support of the application for protection, or through a citizen application for a criminal complaint, shall constitute a report to law enforcement authorities.

(d) Reports to local law enforcement, via a Provider Sexual Crime Report (PSCR), after the performance of a Forensic Sexual Assault Exam in accordance with M.G.L. c. 112, § 12A 1/2, shall constitute a report to law enforcement authorities.

(e) Reports to private security personnel, rape crisis centers, or the Division do not constitute reports to law enforcement authorities.

(2) **Timeliness of Report:** A claimant must demonstrate that the crime was reported within five days of its occurrence except where the Division finds good cause for delay.

(a) A crime is reported within five days of its occurrence if it is reported within five days of when the crime was discovered, or reasonably should have been discovered.

(b) Good cause for delay shall include delay caused by physical or psychological incapacity which prevented the making of a report; or by reasonable fear of retaliation by the offender or others.

(c) Delay resulting from a belief that law enforcement authorities will not investigate the crime, or delay resulting from lack of knowledge that an award under M.G.L. c. 258C is contingent upon reporting the crime to law enforcement authorities, does not constitute good cause for delay.

(d) A finding of good cause for delay does not excuse the reporting requirement which must be satisfied as a condition of receiving compensation.

(3) **Cooperation with Law Enforcement:** A claimant must cooperate in the investigation and prosecution of the crime, unless the Division finds the claimant had a reasonable excuse for failure to cooperate.

(a) **Claimant's Obligation:** Cooperation with law enforcement includes reporting the crime to law enforcement authorities; assisting in identifying the suspect; and complying with all reasonable requests of law enforcement officials for information and assistance. Cooperation with law enforcement may also include applying for the issuance of a criminal complaint in circumstances in which police did not witness the incident and have no right of arrest, provided that in such circumstance, police records clearly demonstrate that the victim was advised of his right to apply for the issuance of a criminal complaint.

(b) **Reasonable Excuse:** Reasonable excuse for failure to cooperate in the investigation or prosecution of the crime includes, but is not limited to, physical or psychological inability to cooperate or reasonable fear of retaliation by the offender or others. Where a claimant has failed to cooperate by failing to apply for the issuance of a criminal complaint in the circumstances described in 940 CMR 14.05(3)(a), reasonable excuse may also include physical inability to travel to court, or cultural or language barriers limiting access to the court system.

(4) **Timely Filing of Claim:** A claim for compensation must be filed within three years of the date of the crime. The filing period shall commence on the date the crime was committed, except in the following circumstances:

(a) If the victim was a minor when the crime was committed, the filing period shall not commence until the victim reaches the age of 18 provided, however, that this exception shall not apply to claims based on the death of a minor victim;

(b) If the victim was a minor when the crime was committed and the crime results in the issuance of a criminal complaint or indictment, the filing period shall not commence until the date of issuance of the

criminal complaint or indictment provided, however, that this exception shall not apply to claims based on the death of a minor victim;

(c) If the claimant did not discover the act which constitutes a crime until more than three years after the crime was committed, the filing period shall not commence until the claimant discovered, or reasonably should have discovered, the act which constitutes a crime; provided, however, that in such cases, the crime for which the claimant seeks compensation must have resulted in the issuance of a criminal complaint or indictment, or any other judicial or administrative determination of probable cause that an act constituting a crime has occurred.

If more than one of the exceptions described in 940 CMR 14.05(4) applies, the claim may be filed within the longest time period permitted by 940 CMR 14.05(4).

## **940 MASS. CODE REGS. 14.06 (2011). COMPENSABLE EXPENSES**

The following expenses are compensable in accordance with the following requirements:

(1) Fund of Last Resort: A claimant must demonstrate that his compensable losses or legal liability exceed reimbursements or eligibility for reimbursement or compensation from any other source including all sources listed in 940 CMR 14.08(2)(e). Awards for compensation shall be reduced by all amounts reimbursed, reimbursable or otherwise compensable by any other source.

(2) Funeral and Burial Expenses: The maximum award for funeral and burial expenses shall be \$6,500. An award for funeral and burial expenses may be based on a bona fide contract for services to be provided. A legal guardian, dependent or other family member of the victim or a person who actually incurs funeral and burial expenses directly related to the death of a victim shall be eligible for compensation for such funeral and burial expenses.

(3) Ancillary Expenses: The maximum award or compensation for expenses other than funeral and burial expenses associated with the interment of a victim whose death is the direct result of a crime shall be \$800. For purposes of 940 CMR 14.06(3) compensable expenses shall include, but not be limited to:

(a) transportation of the victim to the location of interment;

(b) travel of a legal guardian or family member to accompany the victim to the location of interment;

(c) memorial markers at the location of interment or other associated expenses as determined by the program director in accordance with 940 CMR 14.00.

(d) in order to receive payment under 940 CMR 14.06(3) the claimant must submit receipts, cancelled checks, bills for products and services provided, or other proof of payment or liability for products or services. An award for expenses under this category may be based on a bona fide contract for services to be provided. It does not include compensation for public transportation, or for mileage or parking when private transportation is used.

(4) Medical Expenses: A victim shall be eligible for compensation for reasonable medical care obtained as a result of the crime.

(a) Compensation for medical expenses is limited to services, supplies and equipment that are medically necessary as a direct result of the crime. Compensation shall not be awarded for unrelated conditions or services, or for preexisting conditions except to the extent they were exacerbated by the crime.

(b) Compensation for transportation costs incurred while obtaining medical care is limited to costs incurred for emergency and non-emergency ambulance service, chair car service, dial-a-ride service or taxi service obtained when public transportation is unavailable or unsuitable for medical needs. It does not include compensation for public transportation, or mileage or parking when private transportation is used.

(c) The claimant must demonstrate an out-of-pocket loss or legal liability for payment of compensable medical expenses which are not reimbursed or reimbursable by any other source. In order to make this demonstration, the claimant must:

1. submit all bills to insurance providers;
2. exhaust all other sources of public reimbursement including medicaid, medicare, workers compensation, social security, veterans benefits, and care funded by the Health Safety Net Trust Fund under M.G.L. c. 118G;
3. comply with all reasonable requests by the Division to secure information and verifications necessary to investigate the claim.

(d) Upon request by the Division, medical providers are required to:

1. verify that the services rendered are medically necessary as a direct result of the crime. Where medical services or therapy extend beyond six months or 30 sessions (whichever is greater), the Division may, as a condition of further payment, require current verification that the services are medically necessary as a direct result of the crime.
2. provide current billing and balance information, including information about amounts covered by insurance, public benefits or other sources, and current information about any amounts paid and by whom;
3. certify whether the services rendered are reimbursable by medicaid;
4. in the case of hospitals, assist the claimant in applying for health insurance or care funded by the Health Safety Net Fund under M.G.L. c. 118G.

(e) All medical providers must be licensed by the Massachusetts Board of Registration in Medicine or an equivalent state licensing authority, or must be certified by the recognized national certification body for that profession.

(f) The Division may authorize an award for outstanding medical expenses payable directly to the medical provider, but only if the provider has fully cooperated with the Division in the investigation of the claim. Otherwise, awards shall be made payable solely to the claimant.

(g) If an acute or non-acute hospital provides compensable medical services, any award made payable jointly to the claimant and the hospital shall be based on current payment rates established by the contract between the hospital and the Executive Office of Health and Human Services in accordance with M.G.L. c. 118E, § 12 and M.G.L. c. 118G, § 11. Amounts awarded for all other medical services shall be based on reasonable fees charged. If the provider employs a sliding scale fee structure for any category of patient or service, the award shall not exceed the amount the claimant would be charged if he or she qualified under the provider's sliding scale fee structure.

(h) Any medical provider that receives payment from the Commonwealth for medical services, supplies or equipment pursuant to an award under M.G.L. c. 258C shall, as a condition of the receipt of such payment, accept such payment as discharging in full any and all obligations of the claimant to pay, reimburse or compensate the provider for medical services, supplies or equipment, that have been reimbursed under M.G.L. c. 258C.

(5) Mental Health Counseling: A victim, the dependents and family members of a homicide victim, or the parent or legal guardian of a victim who is a minor shall be eligible for compensation for reasonable mental health counseling expenses incurred as a direct result of the crime. Compensation shall not be awarded for treatment of unrelated conditions, or for preexisting conditions except to the extent they were exacerbated by the crime.

(a) Upon request of the Division, the treating mental health provider must submit a mental health treatment plan on a form prescribed by the Division. If mental health treatment extends beyond six months or 30 sessions (whichever is greater), the Division may require, as a condition of further payment, the submission of a current mental health treatment plan by the treating mental health provider.

(b) All mental health providers must be licensed by, or under the direct supervision of a person who is licensed by, either the Massachusetts Board of Registration in Medicine, the Massachusetts Board of Registration of Social Workers, the Massachusetts Board of Registration of Psychologists, the Massachusetts Board of Registration of Allied Mental Health Professionals or by an equivalent state licensing authority.

(c) In making determinations regarding claims for mental health counseling, the Program Director may obtain an advisory opinion of a peer review panel consisting of volunteer members of the mental health provider community.

(d) The Division shall compensate mental health counseling expenses based on reasonable rates charged by a mental health provider. If the mental health provider employs a sliding scale fee structure for any category of client, patient or service, the award shall not exceed the amount the claimant would be charged if he or she qualified under the provider's sliding scale fee structure.

(e) Compensation for mental health counseling may be denied for expenses incurred in the following instances:

1. missed or cancelled appointments;
2. non-therapeutic testimonial court appearances by a mental health provider;
3. non-therapeutic investigatory consultations;
4. photocopying and report writing;
5. tele-therapy or dial-for-therapy services unconnected to any face-to-face consultation or diagnosis.

(f) The Division may authorize payment directly to a mental health provider, but only if the provider has fully cooperated with the Division in the investigation of the claim. Any mental health provider that receives payment from the Commonwealth pursuant to an award under M.G.L. c. 258C shall, as a condition of the receipt of such payment, accept such payment as discharging in full any and all obligations of the claimant to pay, reimburse or compensate the provider for services that have been reimbursed under M.G.L. c. 258C.

(6) Lost Wages: If, at the time of the crime, the victim was employed or had received a bona fide employment offer, or if the victim was a minor who will be disabled from working beyond the age of 18, he or she may be eligible for compensation for lost wages.

(a) In order to be eligible for lost wages, the victim must demonstrate that, as a direct result of injuries caused by the crime, he or she is medically disabled from working and, further, the period of time for which he or she will be disabled from working. Upon request by the Division, the victim must submit a disability letter from a treating physician or mental health provider demonstrating that the victim is disabled from working as a direct result of the crime and specifying when the victim is able to resume working.

(b) An award for lost wages shall be based on the victim's actual earnings at the time of the crime. If the victim was performing salaried employment at the time of the crime, the award shall be based on the victim's salary at the time of the crime. If the victim was performing seasonal, nonsalaried or intermittent work at the time of the crime, the Division may look to the victim's earnings history and the value of the victim's contractual work obligations in order to determine the victim's lost wages.

(c) If the victim was not employed at the time of the crime but had received a bona fide offer of salaried employment, the award shall be based on the victim's net starting salary. If the victim was not working at the time of the crime but had received a bona fide offer of seasonal, nonsalaried or intermittent employment, the Division may look to the victim's earnings history and the value of the victim's contractual work obligations and offers of employment in order to determine the victim's lost wages.

(d) If the victim was a minor at the time of the crime and was not employed, he or she shall be eligible for compensation for lost wages after the age of 18 if he or she provides a disability letter from a treating physician or mental health provider demonstrating that he or she will be disabled from working after the age of 18 as a direct result of the crime and specifying when, if ever, he or she will be able to commence working. An award for lost wages issued under 940 CMR 14.06(6)(d) shall be based on the prevailing minimum wage.

(e) If, at the time of the crime, the victim was not employed or had not received a bona fide employment offer, or if the victim was not a minor who will be disabled from working beyond the age of 18, the Division shall not make an award for lost wages.

(f) Upon request by the Division, the claimant must provide:

1. verification from his or her employer (or, if self-employed, from his or her own records) that he or she was employed at the time of the crime; and of the dates he or she was absent from work, his or her net weekly earnings at the time of the crime, and any sick and vacation benefits used in his or her absence;
  2. verification from his or her prospective employer of when the offer of employment was made, when the employment was to begin, net weekly starting salary, and sick and vacation benefits to which he or she would have been entitled;
  3. proof of employment and earnings history for one year preceding the crime.
- (g) An award for lost wages shall be based on loss of reported income. Unreported income may not form the basis of an award for lost wages.
- (h) An award for lost wages shall be based on net (after tax) earnings. Any compensation awarded shall be reduced by any money received or receivable from any other public or private source including workers compensation benefits, social security benefits, disability benefits, and sick and vacation benefits.
- (i) Failure to provide proof of lost wages, or failure to provide proof of medical disability, may result in denial of a claim for lost wages.

(7) Homemaker Services: If the sole occupation of the victim at the time of the crime, and for one year preceding the crime, was limited to performing the duties and responsibilities of a homemaker, and if, as a direct result of injuries from the crime, the victim is disabled from continuing to provide some or all of the duties and responsibilities of a homemaker, the Division may award reimbursement for the reasonable costs of maintaining such services.

(a) Homemaker services include housekeeping, shopping, errands, meal preparation, laundry and supervision of children.

(b) In order to demonstrate the victim's occupation at the time of the crime, and for the year preceding the crime, the claimant must submit copies of the victim's tax returns, and such other information and verifications as the Division requires.

(c) Except in the case of homicide, the claimant must submit a disability letter from a treating physician or mental health provider demonstrating that, as a direct result of injuries from the crime, the victim is disabled from performing some or all of the duties and responsibilities of a homemaker, and specifying the duties and responsibilities the victim is unable to perform. The letter must also specify when the victim is able to resume the duties and responsibilities of a homemaker.

(d) Upon request by the Division, the claimant must submit verification that replacement homemaker services were obtained as a direct result of the victim's inability to perform such homemaker services as a direct result of injuries due to the crime.

(e) Except as provided in 940 CMR 14.06(7)(f), reimbursement for replacement home-maker services is limited to reasonable out-of-pocket losses or liability for payment of such services. In order to receive reimbursement for homemaker services, the claimant must submit either:

1. receipts, cancelled checks, bills for services provided, or other proof of payment or liability for such services; or

2. where the claimant demonstrates that he or she is unable to purchase homemaker services prior to receipt of an award for compensation, a bona fide contract for services to be provided. In this circumstance, the initial award shall be made payable to the claimant but shall not exceed \$200. In order to be eligible for a supplemental award under 940 CMR 14.06(7)(e), the claimant must demonstrate that compensation already received was actually expended for the purchase of homemaker services.

(f) When a victim's family member or a person on whom the victim is dependent ceases or reduces paid employment in order to assume the homemaker responsibilities the victim is disabled from performing as a direct result of the crime, the Division may reimburse the claimant for actual losses resulting from the assumption of homemaker responsibilities. In order to qualify for compensation under 940 CMR 14.06(7)(f), the claimant must demonstrate that:

1. the victim qualifies as an eligible homemaker under 940 CMR 14.06(7)(a) through (c);

2. the claimant was employed at the time of the crime, and ceased or reduced paid employment as a direct result of the victim's inability to continue to perform the duties and responsibilities of a homemaker; and
3. the claimant has assumed homemaker duties and responsibilities that were previously performed by the victim.

Reimbursement under 940 CMR 14.06(7)(f) is limited to lost earnings directly attributable to the assumption of replacement homemaker services. Reimbursement shall be based on the claimant's net lost earnings but shall not exceed a maximum rate of \$15.00 per hour.

(8) Eligibility for Compensation for Loss of Financial Support: Dependents of homicide victims shall be eligible for loss of the victim's financial support in accordance with the following requirements:

(a) A dependent who is not a minor child of the victim must demonstrate that he was living with the victim at the time of the crime.

(b) In order to demonstrate that he or she was living with the victim at the time of the crime, a claimant must demonstrate that, at the time of the crime, he and the victim shared the same primary residence as shown by tax returns, utility bills, voting lists, school records, residential leases, property deeds or other such documents evidencing primary residence. Proof of frequent visitation does not constitute proof that the claimant was living with the victim at the time of the crime.

(c) In order to be eligible for loss of financial support, the claimant must demonstrate that, at the time of the crime, he or she was wholly or partially dependent on the victim for financial support. A claimant shall be presumed wholly financially dependent on the victim if he or she demonstrates that:

1. he or she is a minor child of the victim who was living with the victim at the time of the crime and receiving financial support from the victim; or
2. at the time of the crime, was living with the victim and the victim's income constituted his or her primary source of financial support.

(d) A claimant may establish that he or she was partially financially dependent on the victim by demonstrating that:

1. he or she is a minor child of the victim who, at the time of the crime, was not living with the victim but was either:
  - a. receiving financial support directly from the victim; or
  - b. the beneficiary of a court order or judicially enforceable agreement entitling him or her to receive financial support directly from the victim; or
2. at the time of the crime, he or she was living with the victim and dependent on financial support received directly from the victim as shown by joint loan agreements, bank accounts or other documents evidencing financial dependence.

(e) A mutual living arrangement does not, in itself, establish financial dependency. A claimant shall not be eligible for compensation for loss of the victim's rent payments, or room and board payments, to the claimant.

(9) Calculation of Award for Loss of Financial Support: A loss of support award shall be calculated based on the annual financial support provided by the victim to the claimant, multiplied by the number of years for which the claimant would have remained financially dependent on the victim.

(a) If the claimant was wholly dependent on the victim for financial support, the determination of annual financial support shall be based on the victim's earnings. The determination of the victim's earnings shall be based on the victim's net earnings at the time of the crime or the victim's average net earnings for one year preceding the crime, whichever is greater.

(b) If the claimant was partially dependent on the victim for financial support, the determination of annual financial support shall be based on:

1. the actual amount of financial support received directly from the victim at the time of the crime; or
2. if the claimant is a minor child of the victim, the greater of:



- a. the actual amount of financial support received directly from the victim at the time of the crime; or
- b. the amount the claimant was entitled to receive from the victim as a result of a court order or judicially enforceable agreement.

(c) The claimant must demonstrate the number of years for which he would have remained financially dependent on the victim. In making this determination, the following limitations shall apply:

- 1. if the claimant is a minor, the period of dependency shall continue until the claimant reaches the age of 18 or until such time as the claimant was legally entitled to receive support from the victim as a result of a court order or judicially enforceable agreement, whichever is greater.
- 2. the period of dependency shall not exceed the life expectancy of either the victim or the claimant, whichever is sooner.

(d) If two or more claimants seek compensation for loss of financial support from the same victim, the award shall be apportioned based on each claimant's loss of financial support from the victim.

(e) As a condition of making an award to a minor dependent of a crime victim, the Division may require that such funds be placed in a trust account for the benefit of the minor dependent. If, at the time of the award, a permanent guardian has not been appointed for the minor dependent, the Division may defer issuance of all or part of the award until such time as a permanent guardian has been appointed, or until the dependent reaches the age of 18, whichever is sooner.

(10) Attorneys' Fees: If the claimant is represented by an attorney in the filing of a claim for compensation, the Division may make an award of attorneys' fees. An attorney's fee award shall be deducted from, and not in addition to, the total award for compensation.

(a) In order to be eligible for an attorney's fee award, the following conditions must apply:

- 1. the attorney must fully cooperate with the Division in the investigation of the claim, including fully and promptly responding to all requests for information and verification; and
- 2. the attorney must submit an affidavit which sets forth hours worked and services rendered for representing the claimant in the claim for compensation.

(b) In determining the amount of an attorney's fee award, the Program Director shall make a determination, based on the attorney affidavit and a review of the file, of a reasonable amount of time spent representing the claimant in the claim for compensation. Attorneys shall be compensated at a rate of no more than \$75 per hour. In no event shall an attorney's fee award exceed 15% of the total award for compensation.

(11) Professional Crime Scene Clean Up Services: Expenses incurred for professional crime scene clean up services necessary as the direct result of the commission of a crime at a private residence or in a motor vehicle that is owned or leased by a victim, family member, or other dependent shall be compensable.

(a) In order to be eligible for reimbursement under 940 CMR 14.06(11)(a) claimants must provide documentation demonstrating the residence or motor vehicle was owned or leased by the victim, family member, or other dependent. Acceptable methods of proof include, but are not limited to, purchase and sale agreements, lease or rental contracts, law enforcement reports or correspondence, or other methods at the discretion of the Division.

(b) In order to be eligible for reimbursement under 940 CMR 14.06(11), "professional crime scene clean up services" providers must act in compliance with 105 CMR 480.000. Additionally, providers must act in compliance with applicable standards of 29 CFR 1910 including but not limited to Bloodborne Pathogen Standard 1910.1030, Personal Protective Equipment 1910.132, and Hazard Communication 1910.1200, which can be found at [www.osha.gov](http://www.osha.gov). Providers must provide verification of adherence to each of these standards to the Division.

(c) In order to receive payment the victim must submit receipts, cancelled checks, bills for services provided, or other proof of payment or liability for services. An award for crime scene cleanup may be based on a bona fide contract for services.

(d) No compensation under 940 CMR 14.06(11) will be paid for the replacement or repair, of property damaged as a result of the crime or follow up investigation.

(e) The maximum compensation amount under 940 CMR 14.06(11) shall not exceed \$1,500.

(12) Replacement of Clothing and Bedding: A victim shall be eligible for compensation for the reasonable replacement costs of clothing and bedding seized as evidence or rendered unusable as the result of a criminal investigation that is the direct result of a crime provided that:

(a) The claimant can demonstrate by way of police reports, law enforcement correspondence, or other case related documentation, at the discretion of the division that

1. the clothing/bedding was in their possession at the time of the crime;
2. the items were seized by law enforcement officials or rendered unusable as a result of the criminal investigation.

(b) In order to receive payment, the victim must submit receipts, cancelled checks, bills or other proof of payment or liability for replacement of the items seized or rendered unusable.

(c) The maximum compensable amount under 940 CMR 14.06(12) shall not exceed \$250.

(13) Security Measures: A victim, or a family member residing with the victim at the time a crime is committed, shall be eligible for compensation for the costs associated with the implementation of security measures.

(a) In order to be eligible for compensation under 940 CMR 14.06(13), the victim, or family member residing with the victim at the time of the crime, must demonstrate that, as a result of a crime or, in conjunction with the circumstances surrounding a crime, the implementation of security measures would reasonably address their safety concerns. In determining eligibility under 940 CMR 14.06(13)(a), the Division shall consider factors including but not limited to the location of the crime, the relationship of the offender to the victim, and access of the offender to the claimant or the residence

(b) Security measures may include but are not limited to, external and internal doors and locks, exterior windows and locks, security systems, and reprogramming security codes.

(c) In order to receive payment the claimant must submit receipts, cancelled checks, bills for products and services provided, or other proof of payment or liability for products or services. Determination of allowable expenses may be based on a bona fide contract for services.

(d) The maximum compensable amount under 940 CMR 14.06(13) shall not exceed \$500.

## **940 MASS. CODE REGS. 14.07 (2011). LIMITATIONS ON COMPENSATION**

(1) Contribution: To the extent the victim's acts or conduct provoked or contributed to the victim's injuries, the Division shall reduce or deny the award to the claimant or claimants.

(a) Definition of Contributory Conduct: Contributory conduct is intentional conduct, willingly and knowingly engaged in by the victim, that is both a direct cause, and a proximate cause, of the victim's injuries.

(b) Circumstances that, in general, do not warrant the denial or reduction of an award based on contributory conduct include:

1. acts of negligence or poor judgment such as entering a motor vehicle operated by an intoxicated person;
2. crimes in which the victim is a victim of sexual assault;
3. acts of self defense or defense of others;
4. acts attributable to reasonable efforts by the victim to aid a crime victim, to prevent a crime from occurring in his presence, or to apprehend a person who has committed a crime in his or her presence.

(c) Circumstances that may warrant a reduction or denial of an award based on contributory conduct include:

1. crimes in which the victim deliberately provoked the offender by means of fighting words, racial or other bias-motivated taunting, or by threats coupled with overt actions indicating the victim's intent to carry out the threat;
2. crimes in which the victim initiated or significantly escalated a physical altercation with the offender;

3. crimes constituting acts of retaliation or retribution for a crime or crimes previously committed by the victim;
  4. crimes in which the victim acted as an accomplice to the offender;
  5. crimes committed during the course of an illegal drug transaction in which the victim was a knowing and willing participant;
  6. crimes in which the victim's felony criminal record, coupled with the circumstances of the crime, lead to the reasonable inference that the crime for which the claimant seeks compensation was directly caused or provoked by the victim's criminal history.
- (d) If the Division finds that a victim knowingly and willingly engaged in intentional conduct that was a direct cause of his or her injuries, the Division shall determine the proximate cause of the victim's injuries and may deny, reduce or allow the award as follows:
1. if it was reasonably foreseeable that the victim's contributory actions would result in injuries of the type and nature he or she sustained, the claim shall be denied (e.g. an implicit or explicit agreement to fight, in which a physical altercation ensued resulting in mutual injuries).
  2. if it was reasonably foreseeable that the victim's contributory conduct would result in injuries to the victim, but it was not reasonably foreseeable that his or she actions would result in injuries of the nature and type sustained by the victim, the award may be reduced by 50% (e.g. victim was stabbed or shot in response to punching the offender).
  3. if the victim's injuries were not reasonably foreseeable, the award shall not be reduced or denied even though the victim's actions were an actual and direct cause of his or her injuries (e.g. victim was stabbed or shot in response to verbal provocation of the offender).

(2) Unjust Enrichment:

- (a) A claimant shall not be eligible for compensation if such compensation would unjustly benefit the offender.
- (b) In no event shall a claimant be denied compensation solely because of the claimant's or the victim's familial relationship with the offender or because of the sharing of a residence by the victim or claimant and the offender.

**MASS. GEN. LAWS ANN. CH. 41, § 97B (2011). RAPE REPORTING AND PROSECUTION UNITS WITHIN POLICE DEPARTMENTS; TRAINING AND FUNDING; PERSONNEL; PRESERVATION OF EVIDENCE**

There shall be within the police department of every city and town, or grouping of cities and towns with the approval of the secretary of the executive office of public safety, a rape reporting and prosecution unit which shall be designed to improve the quality of rape reporting, counselling, and prosecution. Said units shall consist of police investigators who shall have completed a course of training in the counselling of victims of rape and the prosecution of alleged perpetrators of the crime of rape which shall be approved and funded by the municipal police training committee established by section one hundred and sixteen of chapter six. Each department shall make efforts to employ women police officers to serve in said units. A victim of rape who is male shall, whenever possible, be interviewed initially by a male police officer, and a victim of rape who is female shall, whenever possible, be interviewed initially by a woman police officer. Each unit shall in addition make use of such counselors, attorneys, and medical personnel as are necessary to provide a broad range of therapeutic services for victims of rape.

Each unit shall provide personnel with training in the use of a standardized kit for the collection and preservation of evidence in rape cases. Such kit shall be designed by said municipal police training committee and shall include instructions, standardized reporting forms, and appropriate receptacles for the collection and preservation of evidence for laboratory and police use. Each kit shall also include medically

and factually accurate written information prepared by the commissioner of public health about emergency contraception.

A hospital licensed pursuant to the provisions of chapter one hundred and eleven shall inform a victim of rape that the evidence of rape preserved in said kit shall be kept for a period of at least six months upon the written request of the victim at the time the evidence is obtained upon forms provided to such victim by such hospital.

## Michigan

### **MICH. COMP. LAWS ANN. §18.355A (2011). SEXUAL ASSAULT MEDICAL FORENSIC EXAMINATION; PAYMENT OF HEALTH CARE PROVIDER; INFORMATION RELATING TO VICTIM, DISCLOSURE, USES; REQUEST FOR TEST BY VICTIM, EFFECT**

(1) A health care provider is eligible to be paid for a sexual assault medical forensic examination under this section only if that examination includes all of the following:

(a) The collection of a medical history.

(b) A general medical examination, including, but not limited to, the use of laboratory services and the dispensing of prescribed pharmaceutical items.

(c) One or more of the following:

(i) A detailed oral examination.

(ii) A detailed anal examination.

(iii) A detailed genital examination.

(d) Administration of a sexual assault evidence kit under section 21527 of the public health code, 1978 PA 368, MCL 333.21527, and related medical procedures and laboratory and pharmacological services.

(2) A health care provider shall not submit a bill for any portion of the costs of a sexual assault medical forensic examination to the victim of the sexual assault, including any insurance deductible or co-pay, denial of claim by an insurer, or any other out-of-pocket expense.

(3) A health care provider seeking payment under this section for a sexual assault medical forensic examination shall do all of the following:

(a) Advise the victim, orally and in writing, that a claim shall not be submitted to his or her insurance carrier without his or her express written consent, and that he or she may decline to consent if he or she believes that submitting a claim to the insurance carrier would substantially interfere with his or her personal privacy or safety.

(b) If the victim gives his or her consent as provided under subdivision (a), submit a claim for the cost of a sexual assault medical forensic examination to the victim's insurance carrier, including, but not limited to, medicaid and medicare.

(4) A health care provider may seek payment from 1 or both of the following if reimbursement cannot be obtained from the victim's insurance or insurance is unavailable:

(a) The commission under this section.

(b) From another entity other than the victim.

(5) A health care provider that is reimbursed for a sexual assault medical forensic examination by a victim's insurance carrier shall not submit to the commission any portion of the claim reimbursable by the insurance carrier.

(6) A health care provider that is reimbursed for a sexual assault medical forensic examination by another entity shall not submit to the commission any portion of the claim reimbursable by the other entity.

(7) The commission shall pay a health care provider not more than \$600.00 for the cost of performing a sexual assault medical forensic examination, including, but not limited to, the cost of 1 or more of the following:

(a) Not more than \$400.00 for the use of an emergency room, clinic, or examination room, and the sexual assault medical forensic examination and related procedures other than services and items described in subdivisions (b) and (c).

(b) Not more than \$125.00 for laboratory services.

(c) Not more than \$75.00 for dispensing pharmaceutical items related to the sexual assault.

(8) A claim for compensation under subsection (7) shall be submitted to the commission in a form and in the manner prescribed by the commission.

(9) Except with the victim's consent or as otherwise provided in this subsection, information collected by the commission under this section that identifies a victim of sexual assault is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, shall not be obtained by subpoena or in discovery, and is inadmissible as evidence in any civil, criminal, or administrative proceeding. Information collected by the commission under this section that identifies a victim of sexual assault is confidential and shall only be used for the purposes expressly provided in this act, including, but not limited to, investigating and prosecuting a civil or criminal action for fraud related to reimbursement provided by the commission under this section.

(10) A victim of sexual assault shall not be required to participate in the criminal justice system or cooperate with law enforcement as a condition of being administered a sexual assault medical forensic examination. For payments authorized under this section, the victim's request for a sexual assault medical forensic examination satisfies the requirements for prompt law enforcement reporting and victim cooperation under sections 6 and 10. [FN1]

(11) As used in this section:

(a) "Health care provider" means any of the following:

(i) A health professional licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(ii) A health facility or agency licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(iii) A local health department as that term is defined in section 1105 of the public health code, 1978 PA 368, MCL 333.1105.

(b) "Sexual assault" means a criminal violation of sections 520a to 520l of the Michigan penal code, 1931 PA 328, MCL 750.520a to 750.520l.

(c) "Sexual assault medical forensic examination" means that term as described in subsection (1)(a) to (d).

### **MICH. COMP. LAWS. ANN. §333.21527. SEXUAL ASSAULT EVIDENCE KIT; INFORMING VICTIMS OF CRIMINAL SEXUAL CONDUCT OF AVAILABILITY OF KIT; PERFORMING PROCEDURES REQUIRED**

Sec. 21527. (1) If an individual alleges to a physician or other member of the attending or admitting staff of a hospital that within the preceding 24 hours the individual has been the victim of criminal sexual conduct under sections 520a to 520l of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being

sections 750.520a to 750.520l of the Michigan Compiled Laws, the attending health care personnel responsible for examining or treating the individual immediately shall inform the individual of the availability of a sexual assault evidence kit and, with the consent of the individual, shall perform or have performed on the individual the procedures required by the sexual assault evidence kit.

(2) For the purposes of this section, the administration of a sexual assault evidence kit is not a medical procedure.

(3) As used in this section, "sexual assault evidence kit" means a standardized set of equipment and written procedures approved by the department of state police which have been designed to be administered to an individual principally for the purpose of gathering evidence of sexual conduct, which evidence is of the type offered in court by the forensic science division of the department of state police for prosecuting a case of criminal sexual conduct under sections 520a to 520l of the Michigan penal code, Act No. 328 of the Public Acts of 1931.

## **Minnesota**

### **MINN. STAT. ANN. § 609.35 (2011). COSTS OF MEDICAL EXAMINATION**

(a) Costs incurred by a county, city, or private hospital or other emergency medical facility or by a private physician for the examination of a victim of criminal sexual conduct when the examination is performed for the purpose of gathering evidence shall be paid by the county in which the criminal sexual conduct occurred. These costs include, but are not limited to, full cost of the rape kit examination, associated tests relating to the complainant's sexually transmitted disease status, and pregnancy status.

(b) Nothing in this section shall be construed to limit the duties, responsibilities, or liabilities of any insurer, whether public or private. However, a county may seek insurance reimbursement from the victim's insurer only if authorized by the victim. This authorization may only be sought after the examination is performed. When seeking this authorization, the county shall inform the victim that if the victim does not authorize this, the county is required by law to pay for the examination and that the victim is in no way liable for these costs or obligated to authorize the reimbursement.

(c) The applicability of this section does not depend upon whether the victim reports the offense to law enforcement or the existence or status of any investigation or prosecution.

### **MINN. R. 3050.2900 (2011). CONTRIBUTORY MISCONDUCT.**

The board shall deny or reduce, by a minimum of 25 percent, any claim submitted by or on behalf of a person who the board finds has engaged in any of the following acts or behavior that contributed to the injury for which the claim is filed:

A. used fighting words, obscene or threatening gestures, or other provocation, including use of gang or hate group hand signs, colors, symbols, or statements;

B. knowingly and willingly been in a vehicle operated by a person who is under the influence of alcohol or a controlled substance;

- C. consumed alcohol or a controlled substance or other mood altering substances;
- D. unlawfully possessed a controlled substance;
- E. planned, conspired, or attempted to unlawfully use, procure, distribute, or sell a controlled substance;
- F. was a confirmed member or associate of a gang or hate group; or
- G. failed to retreat or withdraw from a situation where an option to do so was readily available.

Any of these provisions may be waived in cases of domestic abuse or sexual assault.

## Mississippi

### **MISS. CODE ANN. § 99-37-25 (2011). PAYMENT FOR MEDICAL EXAMINATION OF RAPE VICTIM; EXAMINATION OF ACCUSED**

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

(b) Upon application submitted by the district attorney, provided the proper warrant or court order has been issued, the county in which an offense of sexual assault or of felonious abuse or battery of a child as described in Section 97-5-39, touching or handling a child for lustful purposes as described in Section 97-5-23, exploitation of children as described in Section 97-5-33 or sexual battery as described in Section 97-3-95, or statutory rape as defined in Section 97-3-65, or an attempt to commit such offense has occurred shall pay for a 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.

### **MISS. CODE ANN. § 99-41-29 (2011). CRIME VICTIMS' COMPENSATION FUND**

(1) From and after July 1, 1990, there is hereby created in the State Treasury a special interest-bearing fund to be known as the Crime Victims' Compensation Fund. The monies contained in the fund shall be held in trust for the sole purpose of payment of awards of compensation to victims and claimants pursuant to this chapter, the payment of all necessary and proper expenses incurred by the division in the administration of this chapter, payment of sexual assault examinations pursuant to Section 99-37-25, and payment of other expenses in furtherance of providing assistance to victims of crime through information referrals, advocacy outreach programs and victim-related services. Expenditures from the fund shall be paid by the State Treasurer upon warrants issued by the Department of Finance and Administration, and upon requisitions signed by the Attorney General or his duly designated representative in the manner provided by law. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of: (a) monies appropriated by the Legislature for the purposes of compensating the victims of crime and other claimants under this chapter; (b) the interest accruing to the fund; (c) monies recovered by the director under the provisions of Section 99-41-21; (d) monies received from the federal government; and (e) monies received from such other sources as may be provided by law.

(2) No compensation payments shall be made which exceed the amount of money in the fund. The state shall not be liable for a written order to pay compensation, except to the extent that monies are available in the fund on the date the award is ordered. The Attorney General shall establish such rules and regulations as shall be necessary to adjust awards and payments so that the total amount awarded does not exceed the amount of money on deposit in the fund. Such rules and regulations may include, but shall not be limited to, the authority to provide for suspension of payments and proportioned reduction of benefits to all claimants; provided, however, no such reductions as provided for shall entitle claimants to future retroactive reimbursements in future years.

### **MISS. CODE ANN. § 99-49-1 (2011). BIOLOGICAL EVIDENCE; LEGISLATIVE INTENT; DEFINITIONS; PRESERVATION PROCEDURES; REMEDIES**

(1) **Legislative intent.** The Legislature finds that:

(a) The value of properly preserved biological evidence has been enhanced by the discovery of modern DNA testing methods, which, coupled with a comprehensive system of DNA databases that store crime scene and offender profiles, allow law enforcement to improve its crime-solving potential;



- (b) Tapping the potential of preserved biological evidence requires the proper identification, collection, preservation, storage, cataloguing and organization of such evidence;
- (c) Law enforcement agencies indicate that “cold” case investigations are hindered by an inability to access biological evidence that was collected in connection with criminal investigations;
- (d) Innocent people mistakenly convicted of the serious crimes for which biological evidence is probative cannot prove their innocence if such evidence is not accessible for testing in appropriate circumstances;
- (e) It is well established that the failure to update policies regarding the preservation of evidence squanders valuable law enforcement resources, manpower hours and storage space; and
- (f) Simple but crucial enhancements to protocols for properly preserving biological evidence can solve old crimes, enhance public safety and settle claims of innocence.

(2) **Definitions.** For the purposes of this section:

- (a) “Biological evidence” means the contents of a sexual assault examination kit or any item that contains blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids or other identifiable biological material that was collected as part of the criminal investigation or may reasonably be used to incriminate or exculpate any person for the offense. This definition applies whether that material is catalogued separately, such as on a slide, swab or in a test tube, or is present on other evidence, including, but not limited to, clothing, ligatures, bedding or other household material, drinking cups, cigarettes or other items.
- (b) “DNA” means deoxyribonucleic acid.
- (c) “Custody” means persons currently incarcerated; civilly committed; on parole or probation; or subject to sex offender registration for the period of the registration or for the first five (5) years of the registration, whichever is the shorter period.
- (d) “Profile” means a unique identifier of an individual, derived from DNA.
- (e) “State” refers to any governmental or public entity within Mississippi, including all private entities that perform such functions, and its officials or employees, including, but not limited to, law enforcement agencies, prosecutors' offices, courts, public hospitals, crime laboratories, and any other entity or individual charged with the collection, storage or retrieval of biological evidence.

(3) **Preservation of evidence procedures.** (a) The state shall preserve all biological evidence:

- (i) That is secured in relation to an investigation or prosecution of a crime for the period of time that the crime remains unsolved; or
- (ii) That is secured in relation to an investigation or prosecution of a crime for the period of time that the person convicted of that crime remains in custody.

(b) This section applies to evidence that:

- (i) Was in the possession of the state during the investigation and prosecution of the case; and

(ii) At the time of conviction was likely to contain biological material.

(c) The state shall not destroy biological evidence should one or more additional co-defendants, convicted of the same crime, remain in custody, and shall preserve the evidence for the period of time in which all co-defendants remain in custody.

(d) The state shall retain evidence in the amount and manner sufficient to develop a DNA profile from the biological material contained in or included on the evidence.

(e) Upon written request by the defendant, the state shall prepare an inventory of biological evidence that has been preserved in connection with the defendant's criminal case.

(f) The state may destroy evidence that includes biological material before the expiration of the time period specified in paragraph (a) of this subsection if all of the following apply:

(i) No other provision of federal or state law requires the state to preserve the evidence.

(ii) The state sends certified delivery of notice of intent to destroy the evidence to:

1. All persons who remain in custody as a result of the criminal conviction, delinquency adjudication, or commitment related to evidence in question;
2. The attorney of record for each person in custody;
3. The Mississippi Office of Indigent Appeals;
4. The district attorney in the county of conviction; and
5. The Mississippi Attorney General.

(iii) No person who is notified under paragraph (f)(ii) of this subsection does either of the following within sixty (60) days after the date on which the person received the notice:

1. Files a motion for testing of evidence under Title 99, Chapter 39, Mississippi Code of 1972; or
2. Submits a written request for retention of evidence to the state entity which provided notice of its intent to destroy evidence under paragraph (f)(ii) of this subsection.

(g) If, after providing notice under paragraph (f)(ii) of this subsection of its intent to destroy evidence, the state receives a written request for retention of the evidence, the state shall retain the evidence while the person remains in custody.

(h) The state shall not be required to preserve physical evidence that is of such a size, bulk or physical character as to render retention impracticable. When such retention is impracticable, the state shall remove and preserve portions of the material evidence likely to contain biological evidence related to the offense, in a quantity sufficient to permit future DNA testing, before returning or disposing of the physical evidence.

(i) Should the state be called upon to produce biological evidence that could not be located and whose preservation was required under the provisions of this statute, the chief evidence custodian assigned to the entity charged with the preservation of said evidence shall provide an affidavit in which the custodian stipulates, under penalty of perjury, an accurate description of the efforts taken to locate that evidence and that the evidence could not be located.

(4) Any evidence in a murder, manslaughter or felony sexual assault case in the possession of the state on July 1, 2009, whether biological or not, shall be preserved by the state consistent with the legislative intent expressed in subsection (1) and subject to compliance with subsection (3)(f).

(5) **Remedies for noncompliance.** If the court finds that biological evidence was destroyed in violation of the provisions of this section, it may impose appropriate sanctions and order appropriate remedies.

## Missouri

### **MO. ANN. STAT. §595.220 (2011). FORENSIC EXAMINATIONS, DEPARTMENT OF PUBLIC SAFETY TO PAY MEDICAL PROVIDERS, WHEN--MINOR MAY CONSENT TO EXAMINATION, WHEN--ATTORNEY GENERAL TO DEVELOP FORMS--COLLECTION KITS--DEFINITIONS--RULEMAKING AUTHORITY**

1. The department of public safety shall make payments to appropriate medical providers, out of appropriations made for that purpose, to cover the reasonable charges of the forensic examination of persons who may be a victim of a sexual offense if:

(1) The victim or the victim's guardian consents in writing to the examination; and

(2) The report of the examination is made on a form approved by the attorney general with the advice of the department of public safety. The department shall establish maximum reimbursement rates for charges submitted under this section, which shall reflect the reasonable cost of providing the forensic exam.

2. A minor may consent to examination under this section. Such consent is not subject to disaffirmance because of minority, and consent of parent or guardian of the minor is not required for such examination. The appropriate medical provider making the examination shall give written notice to the parent or guardian of a minor that such an examination has taken place.

3. The attorney general, with the advice of the department of public safety, shall develop the forms and procedures for gathering evidence during the forensic examination under the provisions of this section. The department of health and senior services shall develop a checklist, protocols, and procedures for appropriate medical providers to refer to while providing medical treatment to victims of a sexual offense, including those specific to victims who are minors.

4. Evidentiary collection kits shall be developed and made available, subject to appropriation, to appropriate medical providers by the highway patrol or its designees and eligible crime laboratories. Such kits shall be distributed with the forms and procedures for gathering evidence during forensic examinations of victims of a sexual offense to appropriate medical providers upon request of the provider, in the amount requested, and at no charge to the medical provider. All appropriate medical providers shall, with the written consent of the victim, perform a forensic examination using the evidentiary collection kit, or other collection procedures developed for victims who are minors, and forms and procedures for gathering evidence following the checklist for any person presenting as a victim of a sexual offense.

5. In reviewing claims submitted under this section, the department shall first determine if the claim was submitted within ninety days of the examination. If the claim is submitted within ninety days, the department shall, at a minimum, use the following criteria in reviewing the claim: examination charges submitted shall be itemized and fall within the definition of forensic examination as defined in subdivision (3) of subsection 7 of this section.

6. All appropriate medical provider charges for eligible forensic examinations shall be billed to and paid by the department of public safety. No appropriate medical provider conducting forensic examinations and providing medical treatment to victims of sexual offenses shall charge the victim for the forensic examination. For appropriate medical provider charges related to the medical treatment of victims of sexual

offenses, if the victim is an eligible claimant under the crime victims' compensation fund, the victim shall seek compensation under sections 595.010 to 595.075.

7. For purposes of this section, the following terms mean:

- (1) "Appropriate medical provider", any licensed nurse, physician, or physician assistant, and any institution employing licensed nurses, physicians, or physician assistants, provided that such licensed professionals are the only persons at such institution to perform tasks under the provisions of this section;
- (2) "Evidentiary collection kit", a kit used during a forensic examination that includes materials necessary for appropriate medical providers to gather evidence in accordance with the forms and procedures developed by the attorney general for forensic examinations;
- (3) "Forensic examination", an examination performed by an appropriate medical provider on a victim of an alleged sexual offense to gather evidence for the evidentiary collection kit or using other collection procedures developed for victims who are minors;
- (4) "Medical treatment", the treatment of all injuries and health concerns resulting directly from a patient's sexual assault or victimization.

8. The department shall have authority to promulgate rules and regulations necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

***Proposed legislation: 2011 Missouri House Bill No. 504, Missouri Ninety-Sixth General Assembly, First Regular Session (May 02, 2011), VERSION: Engrossed, PROPOSED ACTION: Amended; 2011 Missouri House Bill No. 504, Missouri Ninety-Sixth General Assembly, First Regular Session (Apr 19, 2011), VERSION: Amended/Substituted, PROPOSED ACTION: Amended***

#### **MO. CODE REGS. TIT. 11, § 30-12.010 (2012). PAYMENTS FOR SEXUAL ASSAULT FORENSIC EXAMINATION**

*PURPOSE: This rule sets out the reporting and billing procedures for appropriate medical providers who conduct sexual assault forensic examinations, commonly known as SAFE exams. This rule sets out the requirements for the appropriate medical provider in submitting a SAFE exam claim to the Department of Public Safety for payment. This rule also establishes the criteria by which SAFE exam expenses are paid and sets out the maximum payments for SAFE exams performed at an emergency room and the maximum payments for SAFE exams performed at a clinic.*

(1) For purposes of this section, the following terms mean:

- (A) "Appropriate medical provider," any licensed nurse, physician, or physician assistant, and any institution employing licensed nurses, physicians, or physician assistants, provided that such licensed professionals are the only persons at such institution to perform tasks under the provisions of this section;

(B) “Evidentiary collection kit,” a kit used during a forensic examination that includes materials necessary for appropriate medical providers to gather evidence in accordance with the forms and procedures developed by the attorney general for forensic examinations;

(C) “Forensic examination” or “Sexual Assault Forensic Examination (SAFE) exam,” an examination performed by an appropriate medical provider on a victim of an alleged sexual offense to gather evidence for the evidentiary collection kit or using other collection procedures developed for victims who are minors;

(D) “Medical treatment,” the treatment of all injuries and health concerns resulting directly from a patient’s sexual assault or victimization;and

(E) “Laboratory fees,” those laboratory fees associated with a forensic examination of a child age thirteen (13) or under or those laboratory fees associated with lab tests which the appropriate medical provider deems necessary to determine whether the victim had been drugged.

(2) The victim or the victim’s parent or guardian or the requesting agency shall consent in writing to the examination.

(3) Claims for payment of forensic examination expenses shall be submitted to the Missouri Department of Public Safety, Sexual Assault Forensic Examination (SAFE) Program, PO Box 1589, Jefferson City, MO 65102.

(4) Claims shall be made on the Sexual Assault Forensic Examination Program Report form approved by the Missouri attorney general. The appropriate medical provider must ensure that all lines of the report form are completely and legibly filled out. The appropriate medical provider shall sign and date the report. If the report is incomplete, unsigned, or not dated, the claim may be denied.

(5) To qualify for payment, all claims shall include the Sexual Assault Forensic Examination Program Report, the Sexual Assault Forensic Examination Checklist, and an itemized billing statement.

(6) For billing purposes, all appropriate charges for the sexual assault forensic examination shall be itemized with each billable procedure, service, or supply described, including the accompanying International Classification of Disease (ICD-9) and Current Procedural Terminology (CPT) code(s). Written explanation and reasoning may be required to justify certain codes.

(7) Payment shall not exceed—

(A) Nine hundred dollars (\$900) for forensic exams performed in an emergency room, including all costs associated with the facility and the appropriate medical provider fee.

Payment shall not exceed—

1. Five hundred forty dollars (\$540) for the emergency room fee if submitted separately; and
2. Three hundred sixty dollars (\$360) for the appropriate medical provider fee if submitted separately;

(B) Six hundred fifty dollars (\$650) for forensic exams performed in a clinic, including all costs associated with the facility and the appropriate medical provider. When the exam is performed by a physician, payment shall not exceed—

1. Two hundred ninety dollars (\$290) for the clinic fee if submitted separately;

2. Three hundred sixty dollars (\$360) for the appropriate medical provider fee if submitted separately; and

3. When the exam is performed in a clinic by an appropriate medical provider other than a physician, payment shall not exceed—

A. Three hundred ninety dollars (\$390) for the clinic fee if submitted separately; and

B. Two hundred sixty dollars (\$260) for the appropriate medical provider fee if submitted separately; and

(C) Two hundred dollars (\$200) for any laboratory fees associated with the forensic examination, whether the forensic examination is conducted at an emergency room or clinic.

(8) The billing statement must include an itemization of the charges incurred while conducting the forensic examination, including, if applicable, the itemized laboratory fees.

(9) For the purposes of billing the Sexual Assault Forensic Examination Program, claims shall not include charges for medical procedures that are not part of the SAFE exam. The SAFE Program shall not pay for any portions of the itemized bill that are not part of the SAFE exam. The SAFE Program shall not pay for any laboratory fees associated with a SAFE exam except for qualified laboratory fees.

(10) All claims for sexual assault forensic examination charges must be submitted to the department within ninety (90) days from the date of the forensic examination.

(11) Only one (1) forensic examination per victim per sexual offense may be reimbursed.

(12) For a forensic examination to be eligible for reimbursement by the SAFE Program—

(A) The victim of the alleged sexual offense must be a Missouri resident; or

(B) The alleged sexual offense must have occurred in Missouri.

(13) The department, at its discretion, may require additional information regarding the forensic examination for auditing purposes.

AUTHORITY: section 595.220, RSMo Supp. 2011.\* Emergency rule filed Dec. 7, 2011, effective Dec. 17, 2011, expired June 13, 2012. Original rule filed Dec. 7, 2011, effective Aug. 30, 2012.

## Montana

### **MONT. CODE ANN. §46-15-411 (2011). PAYMENT FOR MEDICAL EVIDENCE--ALLEGED SEXUAL OFFENSES**

(1) The local law enforcement agency within whose jurisdiction an alleged incident of sexual intercourse without consent, sexual assault, or incest occurs shall pay for the medical examination of a victim of the alleged offense when the examination is directed by the agency or when evidence obtained by the examination is used for the investigation, prosecution, or resolution of an offense.

(2)(a) The office of restorative justice in the department of justice shall, as long as funds are available from an appropriation made for this purpose, pay for the medical examination of a victim of an alleged incident of sexual intercourse without consent, sexual assault, or incest if the cost is not the responsibility of a local law enforcement agency under subsection (1).

(b) In administering the provisions of subsection (2)(a), the office of restorative justice shall:

- (i) identify priorities for funding services, activities, and criteria for the receipt of program funds;
- (ii) monitor the expenditure of funds by organizations receiving funds under this section;
- (iii) evaluate the effectiveness of services and activities under this section; and
- (iv) adopt rules necessary to implement this subsection (2).

(3) This section does not require a law enforcement agency or the state to pay any costs of treatment for injuries resulting from the alleged offense.

### **MONT. ADMIN. R. 23.15.401 (2011). FORENSIC RAPE EXAMINATION PAYMENT PROGRAM – PURPOSE**

(1) The forensic rape examination payment program (FREPP) covers the costs of providing sexual assault forensic examinations for victims of an alleged incident of sexual intercourse without consent, sexual assault, or incest who choose not to report the alleged incident to law enforcement, FREPP supplies medical providers with forensic rape examination kits at no charge.

(History: 46-15-411, MCA; IMP, 2-15-2014, 46-15-411, MCA; NEW, 2005 MAR p. 2063, Eff. 10/28/05.)

### **MONT. ADMIN. R. 23.15.402 (2011). FORENSIC RAPE EXAMINATION PAYMENT PROGRAM COVERAGE GUIDELINES**

(1) To be eligible to receive FREPP coverage, a victim must have a forensic rape examination performed within 72 hours of the alleged sexual assault and must choose not to report the alleged incident to law enforcement.

(2) To be eligible for reimbursement by FREPP the forensic rape examination must be:

- (a) performed by a physician or by other medical providers who have been trained to gather evidence of a sexual assault in a manner suitable for use in a court of law; and
- (b) a forensic rape examination kit supplied by FREPP must be used.

(3) FREPP will pay a maximum of \$600 to medical providers who perform forensic rape examinations on victims who do not choose to report the alleged sexual assault to law enforcement.

(a) The forensic rape examination payment includes the following covered costs:

- (i) a complete and customary forensic rape examination;

- (ii) emergency room/facility charges;
- (iii) medical provider charges;
- (iv) sexually transmitted disease (STD) and pregnancy prophylaxis;
- (v) blood and urine specimens for toxicology testing;
- (vi) supplies;
- (vii) laboratory testing;
- (viii) pharmaceuticals; and
- (ix) shipping costs.

(4) The FREPP payment constitutes payment in full for all services related to the forensic rape examination and the medical provider may not bill the victim for covered costs associated with the examination that exceed the allowable payment of \$600.

(5) The FREPP payment does not cover costs associated with the treatment of physical injuries due to the alleged sexual assault. The victim is responsible for payment of such costs.  
(History: 46-15-411, MCA; IMP, 2-15-2014, 46-15-411, MCA; NEW, 2005 MAR p. 2063, Eff. 10/28/05.)

**MONT. ADMIN. R. 23.15.403 (2011). PROCESSING AND RETURN OF FORENSIC RAPE EXAMINATION KITS**

(1) Forensic rape examination kits, which include evidence obtained as a result of the examination, the medical record sexual assault form, and any other paperwork accompanying the examination, should be mailed to the Office of Victim Services, ATTN: FREPP, P.O. Box 201410, 1712 9<sup>th</sup> Ave., Helena, MT 59620-1410, as soon as reasonably possible and preferably within 24 hours of completion of the examination.

(2) FREPP recommends that forensic rape examination kits be sent via federal express or UPS, overnight delivery.  
(History: 46-15-411, MCA; IMP, 46-15-411, MCA; NEW, 2005 MAR p. 2063, Eff. 10/28/05.)

**MONT. ADMIN. R. 23.15.404 (2011). PROVIDER BILLING AND REIMBURSEMENT**

(1) To be eligible for reimbursement for the covered costs of the forensic rape examination, the medical provider must, within 90 days of performing the examination:

- (a) submit the FREPP claim form;
- (b) provide a copy of the patient information form;
- (c) provide an itemized statement of charges listing current procedural terminology (CPT) codes on a standard health care financing administration (HCFA) form; and
- (d) provide copies of all pertinent treatment records.

(2) All billing paperwork should be mailed to the Office of Victim Services, ATTN: FREPP, P.O. Box 201410, 1712 9<sup>th</sup> Ave., Helena, MT 59620-1410.  
(History: 46-15-411, MCA; IMP, 46-15-411, MCA; NEW, 2005 MAR p. 2063, Eff. 10/28/05.)

**MONT. ADMIN. R. 23.15.405 (2011). ADMINISTRATION OF THE FORENSIC RAPE EXAMINATION PAYMENT PROGRAM**

- (1) FREPP will maintain a database of all forensic rape examination kits received.
- (2) FREPP will store forensic rape examination kits for a minimum of 60 days.



(3) FREPP will maintain the confidentiality of the victim's identity and the forensic rape examination.

(4) In the event that a victim chooses to report the alleged sexual assault to law enforcement and the forensic rape examination kit has not been destroyed, FREPP will provide the kit, upon request, to law enforcement.

(History: 46-15-411, MCA; IMP, 46-15-411, MCA; NEW, 2005 MAR p. 2063, Eff. 10/28/05.)

#### **MONT. ADMIN. R. 23.15.406 (2011). LAW ENFORCEMENT'S RESPONSIBILITY TO PAY.**

(1) If FREPP has provided coverage for a forensic rape examination and the victim later reports the offense to law enforcement, in accordance with 46-15-411, MCA, law enforcement must reimburse FREPP for the cost of the examination.

(2) Section (1) does not apply if the forensic rape kit has been destroyed.

(History: 46-15-411, MCA; IMP, 46-15-411, MCA; NEW, 2005 MAR p. 2063, Eff. 10/28/05.)

## **Nebraska**

#### **NEB. REV. STAT. ANN. § 13-607 (2011). SEXUAL ASSAULTS; FORENSIC MEDICAL EXAMINATION; PAYMENT; FORENSIC DNA TESTING; REQUIREMENTS**

(1) The full out-of-pocket cost or expense that may be charged to a sexual assault victim in connection with a forensic medical examination shall be paid for by the law enforcement agency of a political subdivision if such law enforcement agency is the primary investigating law enforcement agency investigating the reported sexual assault.

(2) Except as provided under section 81-2010, all forensic DNA tests shall be performed by a laboratory which is accredited by the American Society of Crime Laboratory Directors-LAB-Laboratory Accreditation Board or the National Forensic Science Technology Center or by any other national accrediting body or public agency which has requirements that are substantially equivalent to or more comprehensive than those of the society or center.

#### **NEB. REV. STAT. ANN. § 29-4306 (2011). COLLECTION OF EVIDENCE; REQUIREMENTS**

Every health care professional as defined in section 44-5418 or any person in charge of any emergency room in this state:

(1) Shall utilize a standardized sexual assault evidence collection kit approved by the Attorney General; and

(2) Shall collect forensic evidence with the consent of the sexual assault or domestic violence victim without separate authorization by a law enforcement agency. If the sexual assault or domestic violence victim is eighteen years of age, the consent of or notification of the parent, parents, guardian, or any other person having custody of the sexual assault or domestic violence victim is not required.

**NEB. REV. STAT. ANN. § 81-2010.03 (2011). SEXUAL ASSAULTS; FORENSIC MEDICAL EXAMINATION; PAYMENT; FORENSIC DNA TESTING; REQUIREMENTS**

(1) The full out-of-pocket cost or expense that may be charged to a sexual assault victim in connection with a forensic medical examination shall be paid for by the Nebraska State Patrol if the patrol is the primary investigating law enforcement agency investigating the reported sexual assault.

(2) Except as provided under section 81-2010, all forensic DNA tests shall be performed by a laboratory which is accredited by the American Society of Crime Laboratory Directors-LAB-Laboratory Accreditation Board or the National Forensic Science Technology Center or by any other national accrediting body or public agency which has requirements that are substantially equivalent to or more comprehensive than those of the society or center.

## **Nevada**

**NEV. REV. STAT. §217.300 (2011). PAYMENT OF COST OF INITIAL MEDICAL CARE OF VICTIM**

The county in whose jurisdiction a sexual assault is committed shall pay any costs incurred for medical care for any physical injuries resulting from the assault which is provided to the victim not later than 72 hours after the victim first arrives for treatment.

**NEV. REV. STAT. §449.244 (2011). CERTAIN COSTS FOR EXAMINATION OR TREATMENT OF VICTIMS OF SEXUAL OFFENSES TO BE CHARGED TO COUNTY**

1. Any costs incurred by a hospital for:

- (a) The examination of the victim of a sexual offense, when the examination is performed for the purposes of gathering evidence for possible prosecution of the person who committed the offense; or
  - (b) Initial emergency medical care for the victim,
- must not be charged directly to the victim. The costs must be charged to the county in whose jurisdiction the offense was committed.

2. Whenever costs are incurred by a hospital for treatment which has been approved by the board of county commissioners pursuant to NRS 217.310 for the victim of a sexual assault and any other person eligible for treatment, the costs of the treatment, not to exceed \$1,000, must be charged to the county which authorized the treatment. Any remainder must be handled the same as other hospital costs.

## **New Hampshire**

**N.H. CODE ADMIN. R. ANN. JUST. 605.12 (2011). FELONIOUS SEXUAL ASSAULT EXAMINATIONS AND PROPHYLAXIS.**

(a) Pursuant to RSA 21-M:8-c, a person who claims to be a victim of a felonious sexual assault who is examined by physician or hospital for the purpose of gathering information or evidence shall not be charged for such services or examination. The health care provider shall first seek payment for such services or

examination from the patient's health care insurer if the victim has health insurance but if the victim does not have such insurance, the health care provider shall seek payment directly from the department or shall write off such charges.

(b) For the safety and privacy of the victim, the health care provider shall not, under any circumstances, send an invoice or billing statement directly to the victim but shall send it directly to the department.

(c) If a person who claims to be a victim of a felonious sexual assault has health insurance which requires the payment of a deductible or a co-payment for such services or examination, the department shall either reimburse the victim for such payment made or pay such deductible or co-payment directly.

(d) The victim shall agree to forensic evidence collection, as set forth in the 'Revised 2005 Edition of Sexual Assault Medical/Forensic Protocol' if examination is sought within 5 days of the assault. The evidence so collected shall not be examined forensically unless the victim also reports the crime to law enforcement. The victim may initially choose to have such evidence collection done anonymously, but the victim shall choose whether to report the crime within 60 days of the evidence collection. If the victim does not report within the 60-day period, the evidence shall be destroyed.

(e) If it is determined by the examining health care provider that the victim may have been exposed to HIV/AIDS as a result of the assault, a voucher for prophylactic medication(s) shall be given to the victim.

(f) Each victim shall also receive a voucher for forensic medical follow-up care. Any payment of a deductible or co-payment for such care shall be handled as provided in (c) above.

(g) A victim who has sought medical treatment pursuant to (a) and (d) above shall be deemed to:

- (1) Have made a report to law enforcement in compliance with Jus 605.02(c); and
- (2) Be credible evidence that an eligible crime has occurred pursuant to Jus 605.02(d).

### **N.H. REV. STAT. § 21-M:8-C (2011). VICTIM OF ALLEGED SEXUAL OFFENSE.**

If a physician or a hospital provides any physical examination of a victim of an alleged sexual offense to gather information and evidence of the alleged crime, these services shall be provided without charge to the individual. Upon submission of appropriate documentation, the physician or hospital shall be reimbursed for the cost of such examination by the department of justice to the extent such costs are not the responsibility of a third party under a health insurance policy or similar third party obligation. The bill for the medical examination of a sexual assault victim shall not be sent or given to the victim or the family of the victim. The privacy of the victim shall be maintained to the extent possible during third party billings. Billing forms shall be subject to the same principles of confidentiality applicable to any other medical record under RSA 151:13. Where such forms are released for statistical or accounting services, all personal identifying information shall be deleted from the forms prior to release.

### **N.H. REV. STAT. § 21-M:8-D (2011). STANDARDIZED RAPE PROTOCOL AND KIT AND DOMESTIC VIOLENCE PROTOCOL.**

The department of justice shall adopt, pursuant to RSA 541-A, and implement rules establishing a standardized rape protocol and kit and a domestic violence protocol to be used by all physicians or hospitals in this state when providing physical examinations of victims of alleged sexual offenses and alleged domestic abuse, as defined in RSA 173-B:1.

## New Jersey

### **N.J. STAT. ANN. §52:4B-52 (2011). PROGRAM COORDINATOR; POWERS AND DUTIES**

The program coordinator shall:

- a. Coordinate the county Sexual Assault Nurse Examiner program in accordance with standard protocols for the provision of information and services to victims of sexual assault developed by the Attorney General pursuant to subsection d. of section 6 of P.L.1985, c. 404 (C.52:4B-44);
- b. Perform forensic sexual assault examinations on victims of sexual assault in accordance with the standards developed by the Attorney General and appropriate medical and nursing standards of care;
- c. Designate one or more licensed physicians or certified forensic sexual assault nurse examiners to perform forensic sexual assault examinations on victims of sexual assault in accordance with the standards developed by the Attorney General and appropriate medical and nursing standards of care;
- d. Develop and implement standardized guidelines for forensic sexual assault examinations performed by designated physicians or certified forensic sexual assault nurse examiners in the county;
- e. Develop and implement a standardized education and training program to provide instruction to members of the county Sexual Assault Response Team established pursuant to section 6 of this act which shall include, but not be limited to, instruction in the following areas:
  - (1) the importance of a coordinated, multi-disciplinary response to a report of sexual assault;
  - (2) the policies and procedures which govern the responsibilities of each team member;
  - (3) the psychological effects of sexual assault and rape trauma syndrome on the victim and the victim's family and friends;
  - (4) the collection, handling and documentation of forensic evidence; and
  - (5) confidentiality issues associated with the treatment of a victim of sexual assault and the investigation of a report of sexual assault;
- f. Establish, in cooperation with licensed health care facilities, private waiting rooms and areas designated for forensic sexual assault examinations and the provision of rape care services in the licensed health care facilities participating in the program;
- g. Develop, in cooperation with licensed health care facilities, protocols for the storage of forensic evidence;
- h. Provide appropriate services to victims of sexual assault, including the opportunity to tend to personal hygiene needs, obtain fresh clothing and speak with a rape care advocate prior to and during any medical procedure or law enforcement investigation, unless the victim requires immediate medical attention, as appropriate;
- i. Collaborate with law enforcement officials and the county rape care program to ensure that the needs of victims of sexual assault are met in a compassionate manner;
- j. Participate in regular meetings of the Sexual Assault Nurse Examiner Program Coordinating Council established pursuant to section 7 of this act [FN1]; and

k. Develop and implement procedures to ensure that victims of sexual assault are not charged any fee for services that are directly associated with forensic sexual assault examinations, including routine medical screening, medications for prophylaxis of sexually transmitted infections, pregnancy tests, emergency contraception, supplies, equipment and use of space.

As used in this section and section 6 of this act, "rape care advocate" means a victim counselor, as defined pursuant to section 3 of P.L.1987, c. 169 (C.2A:84A-22.14), who specializes in the provision of rape care services.

***Proposed legislation: 2010 New Jersey Assembly Bill No. 2597, New Jersey Two Hundred Fourteenth Legislature - Second Annual Session (May 09, 2011), VERSION: Amended/Substituted, PROPOSED ACTION: Amended; 2010 New Jersey Assembly Bill No. 2597, New Jersey Two Hundred Fourteenth Legislature - First Annual Session (FULL TEXT - NETSCAN) (Jun 14, 2010), VERSION: Amended/Substituted, PROPOSED ACTION: Amended; 2010 New Jersey Assembly Bill No. 2597, New Jersey Two Hundred Fourteenth Legislature - First Annual Session (FULL TEXT - NETSCAN) (May 06, 2010), VERSION: Introduced, PROPOSED ACTION: Amended***

#### **N.J. STAT. ANN. § 2C:43-3.6 (2011). PENALTIES**

a. In addition to any fine, fee, assessment or penalty authorized under the provisions of Title 2C of the New Jersey Statutes, a person convicted of a sex offense, as defined in section 2 of P.L.1994, c. 133 (C.2C:7-2), shall be assessed a penalty of \$800 for each such offense.

b. All penalties provided for in this section, collected as provided for the collection of fines and restitutions in section 3 of P.L.1979, c. 396 (C.2C:46-4), shall be forwarded to the Department of the Treasury to be deposited in the "Statewide Sexual Assault Nurse Examiner Program Fund" established pursuant to section 12 of P.L.2001, c. 81 (C.52:4B-59).

***Proposed legislation: 2012 New Jersey Assembly Bill No. 2067, New Jersey Two Hundred Fifteenth Legislature - First Annual Session (Jan 17, 2012) , VERSION: Introduced, PROPOSED ACTION: Amended; 2010 New Jersey Assembly Bill No. 4065, New Jersey Two Hundred Fourteenth Legislature - Second Annual Session (May 23, 2011) , VERSION: Introduced, PROPOSED ACTION: Amended; 2010 New Jersey Senate Bill No. 2873, New Jersey Two Hundred Fourteenth Legislature - Second Annual Session (May 12, 2011), VERSION: Introduced, PROPOSED ACTION: Amended***

**SEE ALSO, ATTORNEY GENERAL STANDARDS FOR PROVIDING SERVICES TO VICTIMS OF SEXUAL ASSAULT, 2ND ED., (DEC. 2004).**

State of New Jersey, Division of Criminal Justice, Attorney General Guidelines, *available at* <http://www.nj.gov/lps/dcj/agguide/standards/standardssartsane.pdf> (last visited Jan. 27, 2012).

## **New Mexico**

### **N.M. STAT. ANN. § 29-11-3 (2012) DEFINITIONS**

As used in the Sexual Crimes Prosecution and Treatment Act:

A. “administrator” means the director of the mental health division of the department of health, or such person or office as the administrator may designate to act in his stead;

B. “evidence” means that evidence relating to the commission of a sexual crime;

C. “medical and psychological treatment” includes that medical, mental or emotional treatment provided a victim of a sexual crime. In addition to the improved physical and emotional condition of a victim, the treatment should result in the improved ability of a victim to make informed and rational choices about serving as a witness in the prosecution of a suspect of a sexual crime; and

D. “sexual crime” includes any act which may be alleged to be a sexual offense or an attempted sexual offense under the provisions of sections 30-9-10 through 30-9-16 and 30-10-3 nmsa 1978.

### **N.M. STAT. ANN. § 29-11-4 (2012). FUND CREATED; ADMINISTRATION**

A. There is created in the state treasury the “sexual crimes prosecution and treatment fund”. Money appropriated to the fund shall be used to carry out the purposes of the Sexual Crimes Prosecution and Treatment Act.

B. The funds shall be administered by the administrator.

### **N.M. STAT. ANN. § 29-11-5 (2012). SEXUAL CRIMES PROSECUTION AND TREATMENT PROGRAM**

A. The administrator shall develop, with the cooperation of the criminal justice department [corrections department], the state police, the New Mexico law enforcement academy, other authorized law enforcement agencies and existing community-based victim treatment programs, a statewide comprehensive plan to train law enforcement officers and criminal justice and medical personnel in the ability to deal with sexual crimes; to develop strategies for prevention of such crimes; to provide assistance in the assembly of evidence for the facilitation of prosecution of such crimes; and to provide medical and psychological treatment to victims of such crimes. This plan shall include, but not be limited to:

(1) education and training of law enforcement officers and criminal justice and medical personnel;

(2) collection, processing and analysis of evidence which facilitates prosecution of suspects of sexual crimes; and

(3) medical and psychological treatment of victims of such crimes.

B. The comprehensive plan shall be implemented throughout the state, and the administrator may contract with appropriate persons, entities, agencies or community-based programs to provide the services to be rendered pursuant to Subsection A of this section and may pay a reasonable fee for such services.

C. Nothing in this section shall be construed to require criminal prosecution of a suspect of a sexual crime by the victim to whom services are rendered pursuant to the provisions of the Sexual Crimes Prosecution and Treatment Act.

D. Training for law enforcement officers in the proper treatment of victims of sexual crimes and collection of evidence and coordination among agencies shall be incorporated in the regular training program for recruits by the New Mexico state police; the basic course taught by the New Mexico law enforcement academy or by other authorized law enforcement agencies. Already-commissioned officers and sex-crime investigators shall receive advanced training through in-service programs.

### **N.M. STAT. ANN. § 29-11-7 (2012). FREE FORENSIC MEDICAL EXAMS FOR VICTIMS OF SEXUAL CRIMES**

The administrator shall:

- A. provide free forensic medical exams to victims of sexual crimes;
- B. arrange for victims of sexual crimes to obtain free forensic medical exams; or
- C. reimburse victims of sexual crimes for the cost of forensic medical exams, provided that:

(1) the reimbursement covers the full cost of the forensic medical exam, without any deductible requirement or limit on the amount of the reimbursement;

(2) the victim of a sexual crime is entitled to apply for reimbursement for a period of one year from the date of the forensic medical exam;

(3) reimbursement is provided not later than ninety days after the administrator receives written notification of the expense incurred by the victim for the forensic medical exam; and

(4) all victims of sexual crimes, including victims with limited or no English proficiency, are provided with information at the time of the forensic medical exam regarding how to obtain reimbursement for the cost of the exam.

### **SERVICES OF THE NEW MEXICO COALITION OF SEXUAL ASSAULT PROGRAMS (NMCSAP), [HTTP://WWW.NMCSAP.ORG/SERVICES.HTML](http://www.nmcsap.org/services.html)**

#### *Sexual Assault Medical Billing Verification and Payment*

As of July, 1995, the State of New Mexico pays 100% of the forensic medical exam per victim per year on bills resulting from rape exams, evidence collection, or child sexual abuse exams. Up to \$150 is paid on medical costs not associated with evidence collection (injury repair, medications, etc.). The Coalition sends packets with billing instructions to medical providers throughout New Mexico on how to obtain these payments. The bills and verification forms are then sent to the Coalition where they are verified for payable services. The verified bills are then paid by the Coalition through a special Division of Mental Health fund.

### **SEXUAL ASSAULT EVIDENCE KIT (SAEK) INSTRUCTIONS: EXAM AND TREATMENT PROTOCOL AND DIRECTIONS FOR EVIDENCE COLLECTION FROM SEXUAL ASSAULT PATIENTS (REVISED JULY 2005), [WWW.NCDSV.ORG/IMAGES/SEXASSAULTEVIDENCEKITINSTRUCTIONS.PDF](http://www.ncdsv.org/images/SexAssaultEvidenceKitInstructions.pdf)**

#### *Exam Payment*

Inform the patient that the evidence collection portion of the exam will be paid in full by the State of New Mexico and up to \$150.00 of the medical treatment is covered by the State fund. At no time should your

facility submit an invoice for the Sexual Assault Evidence Kit where a physician signs off on a sexual assault medical exam for which a nurse performs. The hospital or clinic (not the patient) should submit billing to:  
NMCSAP/SCPTP  
3909 Juan Tabo NE, Suite 6  
Albuquerque, NM 87111

If a billing packet or more information is required, call the NMCSAP toll free number at 888-883-8020. If additional medical treatment charges are incurred, inform the patient that he/she may be held responsible for the medical portion of the charges (injury repair, prescriptions, etc). The patient may apply for additional funding to cover the medical treatment from Crime Victims Reparation Commission (841-9432) if a police report is filed. (The number for the Commission is also in the enclosed "From Victim to Survivor" brochure.)

## **New York**

### **N.Y. EXEC. LAW § 631 (McKINNEY 2011). AWARDS**

1. No award shall be made unless the office finds that  
(a) a crime was committed,  
(b) such crime directly resulted in personal physical injury to or the exacerbation of a preexisting disability, or condition, or death of, the victim, and  
(c) criminal justice agency records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the criminal justice agency records show that such report was made more than one week after the occurrence of such crime unless the office, for good cause shown, finds the delay to have been justified; provided, however, in cases involving an alleged sex offense as contained in article one hundred thirty of the penal law or incest as defined in section 255.25, 255.26 or 255.27 of the penal law or labor trafficking as defined in section 135.35 of the penal law or sex trafficking as defined in section 230.34 of the penal law or an offense chargeable as a family offense as described in section eight hundred twelve of the family court act or section 530.11 of the criminal procedure law, the criminal justice agency report need only be made within a reasonable time considering all the circumstances, including the victim's physical, emotional and mental condition and family situation. For the purposes of this subdivision, "criminal justice agency" shall include, but not be limited to, a police department, a district attorney's office, and any other governmental agency having responsibility for the enforcement of the criminal laws of the state provided, however, that in cases involving such sex offense a criminal justice agency shall also mean a family court, a governmental agency responsible for child and/or adult protective services pursuant to title six of article six of the social services law and/or title one of article nine-B of the social services law, and any medical facility established under the laws of the state that provides a forensic physical examination for victims of rape and sexual assault.

1-a. No award shall be made for a frivolous lawsuit unless the office finds that the victim has been awarded costs pursuant to section eighty-three hundred three-a of the civil practice law and rules and the individual responsible for the payment of costs is unable to pay such costs provided, however, that in no event shall the amount of such costs exceed two thousand five hundred dollars.

2. Any award made pursuant to this article shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services necessary as a result of the injury upon which the claim is based; loss of earnings or support resulting from such injury not to exceed thirty thousand dollars; burial expenses not exceeding six thousand dollars of a victim who died as a direct result



of a crime; the costs of crime scene cleanup and securing of a crime scene not exceeding twenty-five hundred dollars; reasonable relocation expenses not exceeding twenty-five hundred dollars; and the unreimbursed cost of repair or replacement of articles of essential personal property lost, damaged or destroyed as a direct result of the crime. An award for loss of earnings shall include earnings lost by a parent or guardian as a result of the hospitalization of a child victim under age eighteen for injuries sustained as a direct result of a crime. In addition to the medical or other services necessary as a result of the injury upon which the claim is based, an award may be made for rehabilitative occupational training for the purpose of job retraining or similar employment-oriented rehabilitative services based upon the claimant's medical and employment history. For the purpose of this subdivision, rehabilitative occupational training shall include but not be limited to educational training and expenses. An award for rehabilitative occupational training may be made to a victim, or to a family member of a victim where necessary as a direct result of a crime.

3. Any award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this article, be in an amount equal to the actual loss sustained, provided, however, that no such award shall exceed six hundred dollars for each week of lost earnings or support. Awards with respect to livery operator victims pursuant to paragraphs (f) and (g) of subdivision one of section six hundred twenty-seven of this article shall be granted in the amount and in the manner provided therein. The aggregate award for all such losses pursuant to this subdivision, including any awards made pursuant to paragraphs (f) and (g) of subdivision one of section six hundred twenty-seven of this article, shall not exceed thirty thousand dollars. If there are two or more persons entitled to an award as a result of the death of a person which is the direct result of a crime, the award shall be apportioned by the office among the claimants.

4. Any award made pursuant to this article shall be reduced by the amount of any payments received or to be received by the claimant as a result of the injury (a) from or on behalf of the person who committed the crime, (b) under insurance programs mandated by law, (c) from public funds, (d) under any contract of insurance wherein the claimant is the insured or beneficiary, (e) as an emergency award pursuant to section six hundred thirty of this article. Notwithstanding the foregoing, where the person injured is a livery operator victim, because undue hardship may result to the claimant if immediate payment is not made, any award pursuant to paragraphs (f) and (g) of subdivision one of section six hundred twenty-seven of this article shall be granted without reduction for workers' compensation benefits to be received, if any.

5. (a) In determining the amount of an award, the office shall determine whether, because of his conduct, the victim of such crime contributed to the infliction of his injury, and the office shall reduce the amount of the award or reject the claim altogether, in accordance with such determination.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, the office shall disregard for this purpose the responsibility of the victim for his own injury where the record shows that the person injured was acting as a good samaritan, as defined in this article.

(c) Notwithstanding any inconsistent provision of this article, where the person injured acted as a good samaritan, the office may, without regard to the financial difficulty of the claimant, make an award for out-of-pocket losses. Such award may also include compensation for any loss of property up to five thousand dollars suffered by the victim during the course of his actions as a good samaritan.

(d) Notwithstanding any inconsistent provision of this article, where a person acted as a good samaritan, and was killed as a direct result of the crime, the office may, without regard to the financial difficulty of the claimant, make a lump sum award to such claimant for actual loss of support not to exceed thirty thousand dollars.

(e) Notwithstanding any inconsistent provision of this article, where a police officer or firefighter, both paid and volunteer, dies from injuries received in the line of duty as a direct result of a crime, the office may, without regard to the financial difficulty of the claimant, make an award for the unreimbursed counseling

expenses of the eligible spouse, parents, brothers, sisters or children of such victim, and/or the reasonable burial expenses incurred by the claimant.

6. (a) Claims may be approved only if the office finds that unless the claimant's award is approved he will suffer financial difficulty. However, no finding of financial difficulty is required for a claim for an emergency award or an award less than five thousand dollars. In determining financial difficulty, the office shall consider all relevant factors, including but not limited to:

- (1) the number of claimant's dependents;
- (2) reasonable living expenses of the claimant and his family;
- (3) any special health, rehabilitative or educational needs of the claimant and his dependents;
- (4) the claimant's employment situation including income and potential earning capacity;
- (5) the claimant's net financial resources after authorized deduction as provided in paragraphs (b) and (c) of this subdivision;
- (6) whether claimant's financial resources will become exhausted during his lifetime; and
- (7) the nature and the amount of claimant's total debt and liabilities, including the amount of debt incurred or to be incurred to pay for losses and expenses of the crime, and the extent to which claimant's essential assets will have to be liquidated.

(b) Claimant's net financial resources do not include the present value of future earnings, and shall be determined by the office by deducting from his total financial resources the value, within reasonable limits, of the following items:

- (1) a homestead, not exceeding five hundred thousand dollars, or a total of ten years' rent for a renter;
- (2) personal property consisting of clothing and strictly personal effects;
- (3) household furniture, appliances and equipment;
- (4) tools and equipment necessary for the claimant's trade, occupation or business;
- (5) a family automobile;
- (6) life insurance, except in death claims; and
- (7) retirement, education and health plans or contributions to a retirement or pension program including but not limited to contributions to: (i) employee profit sharing plans, (ii) employee money purchase plans, (iii) 401 (k) plans, (iv) simplified employee pensions (SEP), (v) individual retirement accounts (IRA), (vi) 403 (b) plans, (vii) 457 plans, (viii) Keogh plans, (self employed), and (ix) any other plan or account for which contributions are made primarily for retirement purposes.

(c) The office, after taking into consideration the claimant's financial resources, may exempt that portion of the victim's or claimant's annual income required to meet reasonable living expenses and the value of inventory or other property necessary for the claimant's business or occupation or the production of income required to meet reasonable living expenses. In no event shall the aggregate value of exemptions under this paragraph exceed one hundred thousand dollars.

(d) Nothing contained in this subdivision shall be construed to mean that the office must maintain the same standard of living enjoyed by the claimant prior to the death or injury.

(e) The director shall promulgate such rules and regulations as are necessary for the implementation of this section.

7. Notwithstanding the provisions of subdivision six of this section, an award shall include out-of-pocket expenses, including indebtedness reasonably incurred by the victim of a sex offense or the person responsible for the victim of such sex offense, as such sex offense is defined in article one hundred thirty of the penal law, for a hospital or medical examination in connection with the investigation or prosecution of any such offense.

8. Notwithstanding the provisions of subdivisions one, two and three of this section, an elderly or disabled victim who has not been physically injured as a direct result of a crime, shall only be eligible for an award that includes the unreimbursed cost of repair or replacement of essential personal property that has been

lost, damaged or destroyed as a direct result of a crime, transportation expenses incurred for necessary court appearances in connection with the prosecution of such crimes and the unreimbursed cost of counselling provided to the elderly or disabled victim on account of mental or emotional stress or financial counselling provided to the elderly or disabled victim on account of financial difficulty resulting from the incident in which the crime occurred if such counselling or financial counselling is commenced within one year from the date of the incident.

9. Any award made for the cost of repair or replacement of essential personal property, including cash losses of essential personal property, shall be limited to an amount of five hundred dollars, except that all cash losses of essential personal property shall be limited to the amount of one hundred dollars.

10. Notwithstanding any contrary provision of law, an award shall include reasonable transportation expenses incurred for necessary court appearances in connection with the prosecution of such crimes upon which the claim is based.

11. Notwithstanding the provisions of subdivisions one, two and three of this section, an individual who was a victim of either the crime of unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, kidnapping in the second degree as defined in section 135.20 of the penal law or kidnapping in the first degree as defined in section 135.25 of the penal law who has not been physically injured as a direct result of such crime shall only be eligible for an award that includes loss of earnings or support and the unreimbursed costs of counseling provided to such victim on account of mental or emotional stress resulting from the incident in which the crime occurred.

12. Notwithstanding the provisions of subdivisions one, two and three of this section, an individual who was a victim of either the crime of menacing in the second degree as defined in subdivision two or three of section 120.14 of the penal law, menacing in the first degree as defined in section 120.13 of the penal law, harassment in the second degree as defined in subdivision two or three of section 240.26 of the penal law, harassment in the first degree as defined in section 240.25 of the penal law, aggravated harassment in the second degree as defined in subdivision four of section 240.30 of the penal law, aggravated harassment in the first degree as defined in subdivision two of section 240.31 of the penal law, criminal contempt in the first degree as defined in paragraph (ii) or (iv) of subdivision (b) or subdivision (c) of section 215.51 of the penal law, or stalking in the fourth, third, second or first degree as defined in sections 120.45, 120.50, 120.55 and 120.60 of the penal law, respectively, who has not been physically injured as a direct result of such crime shall only be eligible for an award that includes loss of earning or support, the unreimbursed cost of repair or replacement of essential personal property that has been lost, damaged or destroyed as a direct result of such crime, the unreimbursed cost for security devices to enhance the personal protection of such victim, transportation expenses incurred for necessary court expenses in connection with the prosecution of such crime, the unreimbursed costs of counseling provided to such victim on account of mental or emotional stress resulting from the incident in which the crime occurred, reasonable relocation expenses, and for occupational or job training.

13. Notwithstanding any other provision of law, rule, or regulation to the contrary, when any New York state accredited hospital, accredited sexual assault examiner program, or licensed health care provider furnishes services to any sexual assault survivor, including but not limited to a health care forensic examination in accordance with the sex offense evidence collection protocol and standards established by the department of health, such hospital, sexual assault examiner program, or licensed healthcare provider shall provide such services to the person without charge and shall bill the office directly. The office, in consultation with the department of health, shall define the specific services to be covered by the sexual assault forensic exam reimbursement fee, which must include at a minimum forensic examiner services, hospital or healthcare facility services related to the exam, and related laboratory tests and necessary pharmaceuticals; including

but not limited to HIV post-exposure prophylaxis provided by a hospital emergency room at the time of the forensic rape examination pursuant to paragraph (c) of subdivision one of section twenty-eight hundred five-i of the public health law. Follow-up HIV post-exposure prophylaxis costs shall continue to be reimbursed according to established office procedure. The office, in consultation with the department of health, shall also generate the necessary regulations and forms for the direct reimbursement procedure. The rate for reimbursement shall be the amount of itemized charges not exceeding eight hundred dollars, to be reviewed and adjusted annually by the office in consultation with the department of health. The hospital, sexual assault examiner program, or licensed health care provider must accept this fee as payment in full for these specified services. No additional billing of the survivor for said services is permissible. A sexual assault survivor may voluntarily assign any private insurance benefits to which she or he is entitled for the healthcare forensic examination, in which case the hospital or healthcare provider may not charge the office. A hospital, sexual assault examiner program or licensed health care provider shall, at the time of the initial visit, request assignment of any private health insurance benefits to which the sexual assault survivor is entitled on a form prescribed by the office; provided, however, such sexual assault survivor shall be advised orally and in writing that he or she may decline to provide such information regarding private health insurance benefits if he or she believes that the provision of such information would substantially interfere with his or her personal privacy or safety and in such event, the sexual assault forensic exam fee shall be paid by the office. Such sexual assault survivor shall also be advised that providing such information may provide additional resources to pay for services to other sexual assault victims. If he or she declines to provide such health insurance information, he or she shall indicate such decision on the form provided by the hospital, sexual assault examiner program or licensed health care provider, which form shall be prescribed by the office.

14. Notwithstanding any inconsistent provision of this article, where a victim dies from injuries received as a direct result of the World Trade Center terrorist attacks on September eleventh, two thousand one, the office may make an award for the unreimbursed and unreimbursable expense or indebtedness reasonably incurred for the cost of counseling for the eligible spouse, grandparents, parents, stepparents, guardians, brothers, sisters, stepbrothers, stepsisters, children, or stepchildren of such victim. Any award for such expense incurred on or before December thirty-first, two thousand seven, shall be made without regard to the financial difficulty of the claimant.

15. Notwithstanding any inconsistent provision of this article, where a victim is injured as a direct result of the World Trade Center terrorist attacks on September eleventh, two thousand one, the office may make an award for the unreimbursed and unreimbursable expense or indebtedness reasonably incurred by the claimant for medical care or counseling services necessary as a result of such injury. Any award for such expense or indebtedness incurred on or before December thirty-first, two thousand seven, shall be made without regard to the financial difficulty of the claimant.

16. Notwithstanding any inconsistent provision of this article, and without regard to the financial difficulty of the claimant, where a victim dies from injuries received as a direct result of the World Trade Center terrorist attacks on September eleventh, two thousand one, the office may make an award of reasonable burial expenses for such victim.

17. Notwithstanding the provisions of subdivision one of this section, where a child victim has not been physically injured as a direct result of a crime, or has witnessed a crime in which no physical injury occurred, the claimant shall only be eligible for an award that includes the unreimbursed cost of repair or replacement of essential personal property of the child victim that has been lost, damaged or destroyed as a direct result of a crime, transportation expenses incurred by the claimant for necessary court appearances of the child victim in connection with the prosecution of such crimes, and, if counseling is commenced within one year from the date of the incident or its discovery, (1) the unreimbursed cost of counseling

provided to the child victim on account of mental or emotional stress resulting from the incident in which the crime occurred, and/or (2) the unreimbursed cost of counseling provided to the claimant eligible under paragraph (h) of subdivision one of section six hundred twenty-four of this article and resulting from the incident in which the crime occurred.

***Proposed legislation: multiple, see Westlaw, Lexis Nexis or State Legislature's website.***

**N.Y. COMP. CODES R. & REGS. TIT. 9, §525.12 (2011). MANNER OF PAYMENT; AWARDS**

(a) The award shall be paid in a lump sum, except that in the case of death or protracted disability the award shall provide for periodic payments to compensate for loss of earnings or support. No award shall be subject to execution or attachment other than for expenses resulting from the injury which is the basis for the claim.

(b) In cases in which the claimant is a minor or incompetent, the award may be paid to a relative, guardian, committee, conservator or attorney of such person on behalf of and for the benefit of such person. In such cases the payee may be required to file a periodic accounting of the award with the office and take such other action as the office shall determine is necessary and appropriate for the benefit of the minor or incompetent.

(c) If there are two or more persons entitled to an award as a result of the death of a person which is the direct result of a crime, the office shall apportion the award among the claimants in the proportion as it finds that the deceased victim contributed to their support.

(d) In the event of a change of dependency of the claimant or any of them, either by marriage of a widow or otherwise, the office may change the proportion and the amount of the payments to the claimant.

(e) In death cases the office shall, at least every twelve months, verify the dependency and financial circumstances of the claimants; and upon finding a change, the office may reduce or increase the proportion of the allowance and award to the claimants as the circumstances warrant.

(f) In protracted disability cases the office shall, at least every twelve months, verify the disability of the claimant to determine whether he or she is entitled to continue to receive periodical payments either in the amount awarded or in a reduced amount.

(g) Any compensation award made pursuant to Executive Law, article 22, shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from such injury.

(1) If the injury causes death, the award shall include funeral, burial plot and marker cost, not exceeding:

- \$6,000 for crimes occurring on and after 11/1/96, claims submitted by any person who incurs such costs;
- \$2,000 for crimes occurring on and after 6/12/91 until 10/31/96, claims submitted by any person who incurs such costs;
- \$2,500 for crimes occurring on and after 8/1/85 until 6/11/91, claims submitted by any person who incurs such costs;
- \$1,500 for crimes occurring on and after 7/30/83 until 7/31/85, claims submitted by any person who incurs such costs;
- \$1,500 for crimes occurring on and after 6/15/82 until 7/29/83, claims submitted by family members;

\$1,500 for crimes occurring on and after 6/16/68 until 6/14/82, claims submitted by a surviving spouse, parent or child;

\$1,000 for crimes occurring on and after 8/1/66 until 6/15/68, claims submitted by a surviving spouse or child.

(2) Where a third party, non-claimant pays for a causally-related out of pocket expense on behalf of a claimant and the third party has no contractual responsibility to the claimant to make such payment, the office shall require affidavits from both the claimant and the third party stating that the payment by the third party was meant as a loan to the claimant, as proof for the office to reimburse the third party.

(3) In order for the costs associated with new or enhanced security devices, beyond those which, pursuant to the Executive Law are repaired or replaced under subdivision 2 of section 631, or are awarded under subdivision 12 of section 631, to be compensable, the office shall require a statement from the claimant's physician or counselor, or the district attorney handling the victim's case, indicating that without the aid of such a device the claimant's health is in imminent danger. Compensable costs shall be limited to the devices themselves and their installation, and shall not include the periodic service charges for monitoring or maintaining any such devices.

(4) The office may require proof from claimants for all claims of crime-related counseling expenses which are filed more than one year after counseling has begun. The claimants shall offer evidence to the office that the counseling is causally connected to the crime and the office may request an independent medical examination of any claimant before authorizing reimbursement for reasonable expenses of counseling services.

(5) Court transportation expenses.

(i) An award shall include reasonable transportation expenses of the claimant incurred for necessary court appearances in connection with the prosecution of the crime upon which the claim is based.

(ii) Except for calculating the reimbursement rate for mileage traveled in instances where a claimant has provided his or her own transportation, the standards for the rates of reimbursement for state employees as promulgated by the Department of Audit and Control and set forth in 2 NYCRR Part 8, shall be followed in making a determination as to the reasonableness of the travel expense incurred as well as the amount of reimbursement. When a claimant has provided his or her own transportation, the standards for the rates of reimbursement for mileage traveled shall be calculated as set forth in subdivision (e) of section 525.3 of this part. The rates of reimbursement in effect on the date the travel expense for the necessary court appearance was incurred shall be controlling.

(iii) Any claimant eligible to receive an award under article 22 and this Part shall be eligible for an award for transportation expenses incurred for necessary court appearances.

(6) Any award for financial counseling expenses must be related to the crime and shall not exceed the actual monetary loss or fraudulent charges and/or debt incurred by the victim. For services provided during a six-month period or longer, the office shall require evidence on a semiannual basis that such counseling continues to be necessary as a direct result of the crime.

(7) An award for crime-related counseling expenses may be made to:

(i) certain family members, pursuant to paragraph b of subdivision 1 of section 624 of the Executive Law, including spouses, grandparents, parents, stepparents, children or stepchildren of homicide victims, if otherwise eligible and as a result of the death of such victim,

(ii) certain family members, pursuant to paragraph h of subdivision 1 of section 624 of the Executive Law, including parents, stepparents, grandparents, guardians, brothers, sisters, stepbrothers or stepsisters of child victims, if otherwise eligible and as a result of the victimization of such child victims, and

(iii) child victims, pursuant to subdivision 17 of section 631 of the Executive Law, if otherwise eligible and as a result of having witnessed a crime.

(h) Direct reimbursement of forensic sexual assault examinations.

(1) Definitions:

(i) "Licensed provider" shall mean any New York State accredited hospital or licensed physician, nurse practitioner, registered nurse or physician assistant practicing within the State of New York whose performance of a sexual assault forensic examination is within the scope of practice of the discipline in which he or she holds a license or any other sexual assault examiner certified by the Department of Health to conduct a sexual assault forensic examination.

(ii) "Sexual assault" shall mean any sexual offense defined in Article 130 of the New York State Penal Law.

(iii) "Forensic examination" shall mean an examination conducted by a licensed provider as defined in Section 525.12(h)(1)(i) hereof for the purpose of collecting and preserving evidence to document a sexual assault, conducted in accordance with the New York State Department of Health's Protocol for the Acute Care of the Adult Patient Reporting Sexual Assault or the Child and Adolescent Sexual Offense Protocol. Copies of these protocols may be obtained from the Department of Health at the following address:

The Bureau of Women's Health  
NYS Department of Health  
Room 1882, Tower Building  
Empire State Plaza  
Albany, New York 12237-0621  
Phone: (518)474-3664

(iv) "Claim form" shall mean the Office of Victim Services Medical Provider Forensic Rape Examination Claim Form. In addition to being included in the Sexual Offense Evidence Collection Kit, this form is available from the Office of Victim Services online at <http://www.ovs.ny.gov>.

(2) Notwithstanding any contrary provisions, whenever a licensed provider administers a forensic examination to a survivor of a sexual assault in accordance with the established protocol as defined in section 525.12(h)(1)(iii) hereof, such provider shall render such services without charge and shall bill the office directly for such services, unless the sexual assault survivor assigns his or her private insurance benefits for the forensic examination, in which case the office shall not be billed for such services by the provider pursuant to this subdivision. Except as provided in section 525.12(h)(6) hereof, nothing in this section shall preclude a licensed provider from billing a sexual assault survivor for medical services unrelated to the forensic exam as set forth in Section 525.12(h)(5)(i), (ii), (iii) and (iv).

(3) At the time of the initial visit, the provider shall:

(i) request assignment of any private health insurance benefits on a form prescribed by the office,

(ii) advise a sexual assault survivor orally and in writing that he or she may decline to provide private health insurance information if he or she believes it would substantially interfere with his or her personal privacy or safety,

(iii) advise a sexual assault survivor that providing such information may provide additional resources to pay for services to other sexual assault victims, and

(iv) require that if he or she declines to provide such health insurance information, he or she shall indicate such decision on the form prescribed by the office.

(4) Eligibility criteria:

(i) To establish eligibility, a licensed provider shall submit a completed Claim Form as defined in section 525.12(h)(1)(iv) and attach an itemized bill indicating the relevant forensic examination related current procedural terminology (CPT) codes associated with each service provided to the office at the address below:

Office of Victim Services  
One Columbia Circle, Suite 200  
Albany, NY 12203

(ii) Upon receipt of a completed Claim Form with an itemized bill including CPT codes and acceptance by the office of Victim Services, payment will be authorized directly to the licensed provider through the appropriate billing facility as set forth in Section 525.12(h)(8).

(5) The provider shall be reimbursed at the rate of itemized charges not exceeding \$800 for forensic examiner services, hospital or healthcare facility services directly related to the forensic exam, and related laboratory tests and pharmaceuticals directly related to the exam. The office has determined that reimbursable expenses shall include at a minimum:

(i) Forensic examiner and hospital or healthcare facility services directly related to the exam, including integral forensic supplies.

(ii) Scope procedures directly related to the forensic exam including but not limited to anoscopy and colposcopy.

(iii) Laboratory testing directly related to the forensic examination, including drug screening, urinalysis, pregnancy screen, syphilis screening, chlamydia culture, gonorrhea coverage culture, blood test for HIV screening, hepatitis B and C, herpes culture and any other STD testing directly related to the forensic examination.

(iv) Pharmaceuticals directly related to the forensic examination including STD, pregnancy, initial HIV prophylaxis up to a three day supply and hepatitis prophylaxis.

(v) Except as provided in section 525.12(h)(6) hereof, follow-up post exposure HIV prophylaxis and follow-up HIV counseling, charges for inpatient services, and for services other than those included in Section 525.12(h)(5)(i), (ii), (iii) and (iv) are not included in this rate and shall not be reimbursable under this Part, but shall continue to be reimbursable under established office procedure.

(6) The victim shall not be responsible for the payment of the cost of the forensic examination or any other services specified by the provider in its submission to the office pursuant to Section 525.12(h)(4) hereof. The licensed provider must accept the reimbursement rate as payment in full for those services submitted to the office pursuant to Section 525.12(h)(4) hereof and included in Section 525.12(h)(5)(i), (ii), (iii) and (iv). The licensed provider shall not submit any remaining balance due for such services after submission to the office to the victim or commence civil actions against the victim to recover any balance due for such services.

(7) The costs for multiple forensic examinations of the same victim will not be reimbursed. The cost of only one forensic sexual assault examination per victim per alleged sexual assault will be considered a reimbursable cost.

(8) For the forensic examination and services directly related to the forensic examination, the office will reimburse the facility in which the forensic examination was conducted and whose operator's certificate number or facility identification, if applicable, appears on the Claim Form, the amount of itemized charges not exceeding \$800. The amount reimbursed shall be proportionately allocated among the service providers by the billing facility.

(9) Expenses must be related to a forensic examination performed within 96 hours following the incident. This reporting time shall be waived for a child victim or for any victim if good cause has been shown.

(10) A claim for reimbursement of expenses associated with a forensic examination made pursuant to this section must be submitted within one year of the date of the examination to the Albany Office of Crime Victim Services.

(i) (1) Any award for loss of earnings shall include time which an employee:

(i) was absent from work and not paid for the day or time off;

(ii) was absent from work and utilized accumulated paid leave available to him or her by the employer; or

(iii) had taken leave of employment without pay.

(2) An award for loss of earnings by a parent or guardian as a result of the hospitalization of a child victim under the age of eighteen for injuries sustained as a direct result of a crime, shall further be limited by the following:



(i) the victim's full loss of earnings shall take priority over any other eligible claim for loss of earnings by a parent or guardian based on the victim's hospitalization;

(ii) should more than one parent or guardian be eligible for an award for loss of earnings, the office shall only award the first eligible claim received, in addition to the victim's claim, per hospitalization period or portion of such period;

(iii) the total weekly award for an eligible claimant or claimants shall not exceed six hundred dollars. See Executive Law section 631 (3); and

(iv) the total loss of earnings award for an eligible claimant or claimants shall not exceed thirty thousand dollars. See Executive Law section 631 (2).

(3) (i) Except as provided in subparagraph (ii) of this paragraph, and pursuant to and in accordance with this Part and Executive Law Article 22 and subject to any applicable maximum award limitations contained therein, any award for a victim's loss of earnings shall be limited to a period of disability resulting from crime-related injuries as established by the medical evidence obtained during the investigation of a claim.

(ii) If during the investigation of the claim such period of disability can not be established by medical evidence, there shall be a rebuttable presumption that such victim has suffered a period of disability of not longer than seven consecutive days beginning on the date of the crime. The office may award loss of earnings for such period, or a portion thereof.

(j) Notwithstanding any contrary provisions of this Part, claims with respect to a livery operator victim shall be investigated on an expedited basis and a decision shall be made within thirty days of the date upon which the claim was accepted for filing.

(1) Each award for loss of earnings pursuant to this paragraph made with respect to a claim involving a livery operator assault victim shall be for such period of time as the office determines that the livery operator assault victim is unable to work and has lost earnings as a result of such assault, in an amount not to exceed twenty thousand dollars. Such award shall be distributed in increments of five hundred dollars per week.

(2) Each award for loss of support pursuant to this paragraph made with respect to a claim involving a livery operator homicide victim shall be in the amount of twenty thousand dollars, distributed in increments of five hundred dollars per week.

(k) Any claimant may submit an additional claim for any loss of earnings or support in excess of the amount awarded pursuant to this section, or an additional claim for any other award pursuant to this Part or Executive Law Article 22, in each case pursuant to and in accordance with this Part and Executive Law Article 22 and subject to any applicable maximum award limitations contained therein.

(l) The office is payer of last resort and as such, the claimant must exhaust all collateral sources available to them pursuant to subdivision 4 of section 631 of the Executive Law. All awards made pursuant to Executive Law Article 22 and this Part shall be reduced in the manner prescribed in subdivision 4 of section 631 of the Executive Law, provided however that any payments received or to be received by the claimant or victim as the result of a private civil action brought against the "profits of a crime" or the "funds of a convicted person" pursuant to section 632-a of the Executive Law shall not reduce the amount of such awards.

## **N.Y. PUB. HEALTH LAW § 2805-1 (MCKINNEY 2011). TREATMENT OF SEXUAL OFFENSE VICTIMS AND MAINTENANCE OF EVIDENCE IN A SEXUAL OFFENSE**

1. Every hospital providing treatment to alleged victims of a sexual offense shall be responsible for:

(a) maintaining sexual offense evidence and the chain of custody as provided in subdivision two of this section.

(b) contacting a rape crisis or victim assistance organization, if any, providing victim assistance to the geographic area served by that hospital to establish the coordination of non-medical services to sexual offense victims who request such coordination and services.

(c) offering and making available appropriate HIV post-exposure treatment therapies; including a seven day starter pack of HIV post-exposure prophylaxis, in cases where it has been determined, in accordance with guidelines issued by the commissioner, that a significant exposure to HIV has occurred, and informing the victim that payment assistance for such therapies may be available from the office of victim services pursuant to the provisions of article twenty-two of the executive law. With the consent of the victim of a sexual assault, the hospital emergency room department shall provide or arrange for an appointment for medical follow-up related to HIV post-exposure prophylaxis and other care as appropriate.

2. The sexual offense evidence shall be collected and kept in a locked separate and secure area for not less than thirty days unless:

(a) such evidence is not privileged and the police request its surrender before that time, which request shall be complied with; or

(b) such evidence is privileged and

(i) the alleged sexual offense victim nevertheless gives permission to turn such privileged evidence over to the police before that time, or

(ii) the alleged sexual offense victim signs a statement directing the hospital to not collect and keep such privileged evidence, which direction shall be complied with.

The sexual offense evidence shall include, but not be limited to, slides, cotton swabs, clothing and other items. Where appropriate such items must be refrigerated and the clothes and swabs must be dried, stored in paper bags and labeled. Each item of evidence shall be marked and logged with a code number corresponding to the patient's medical record. The alleged sexual offense victim shall be notified that after thirty days, the refrigerated evidence will be discarded in compliance with state and local health codes and the alleged sexual offense victim's clothes will be returned to the alleged sexual offense victim upon request.

3. Upon admittance or commencement of treatment of the alleged sexual offense victim, the hospital shall advise the victim of the availability of the services of a local rape crisis or victim assistance organization, if any, to accompany the victim through the sexual offense examination. If after receiving such advice the sexual offense victim wishes the presence of a rape crisis or victim assistance advocate, the hospital shall contact the appropriate organization and request that one be provided, provided, however, that if in the professional judgment of the treating practitioner a delay in treatment is detrimental to the provision of medical treatment, then examination or treatment need not be delayed pending the arrival of such advocate and further provided that the presence or continued presence of such advocate does not interfere with the provision of necessary medical care to the victim.

4. No hospital or treating practitioner shall be liable in civil damages for failing to comply with the requirements of subdivision one, two or three of this section or acting in good faith to provide treatment as provided in subdivision three of this section.

4-a. On and after April first, two thousand one, a hospital providing treatment to alleged victims of sexual offenses shall be eligible to receive from the division of criminal justice services, at no cost, sexual offense evidence collection kits.

4-b. (a) The commissioner shall, with the consent of the directors of interested hospitals in the state and in consultation with the commissioner of the division of criminal justice services, designate hospitals in the state as the sites of a twenty-four hour sexual assault forensic examiner program. The hospital sites shall be designated in urban, suburban and rural areas to give as many state residents as possible ready access to the sexual assault forensic examiner program. The commissioner, in consultation with the commissioner of the

division of criminal justice services, shall consider the following criteria when designating these sexual assault forensic examiner program sites:

- (1) the location of the hospital;
- (2) the hospital's capacity to provide on-site comprehensive medical services to victims of sexual offenses;
- (3) the capacity of the hospital site to coordinate services for victims of sexual offenses including medical treatment, rape crisis counseling, psychological support, law enforcement assistance and forensic evidence collection;
- (4) the hospital's capacity to provide access to the sexual assault forensic examiner site for disabled victims;
- (5) the hospital's existing services for victims of sexual offenses;
- (6) the capacity of the hospital site to collect uniform data and insure confidentiality of such data; and
- (7) the hospital's compliance with state and federally mandated standards of medical care.

(b) Each sexual assault forensic examiner program site designated pursuant to this subdivision shall comply with the requirements of subdivisions one, two and three of this section, and shall also provide treatment to the victim as follows:

(1) The victim shall, absent exigent circumstances, be met by a sexual assault forensic examiner within sixty minutes of arriving at the hospital, who shall be a nurse practitioner, physician assistant, registered nurse or physician specially trained in forensic examination of sexual offense victims and the preservation of forensic evidence in such cases and certified as qualified to provide such services pursuant to regulations promulgated by the commissioner. Such program shall assure that such a specially-trained forensic examiner is on-call and available on a twenty-four hour a day basis every day of the year.

(2) An examination of the victim shall be performed promptly by such forensic examiner in a private room designated for such examinations. An obstetrician/gynecologist or other appropriate medical doctor shall be readily available to the forensic examiner if there is a need for more specialized medical evaluation or treatment.

(3) Promptly after the examination is completed, the victim shall be permitted to shower, be provided with a change of clothing, and receive follow-up information, counseling, medical treatment and referrals for same.

(c) Nothing in this subdivision shall affect the existence or continued existence of any program in this state through which a trained nurse practitioner, physician assistant, registered nurse or physician is providing appropriate forensic examinations and related services to survivors of sexual assault.

5. The commissioner shall promulgate such rules and regulations as may be necessary and proper to carry out effectively the provisions of this section. Prior to promulgating such rules and regulations, the commissioner shall consult with relevant police agencies, forensic laboratories, rape crisis centers, hospitals, and other such persons as the commissioner deems necessary. Such rules and regulations shall identify the offenses subject to the provisions of this section, provide a specific definition of sexual offense evidence and require each hospital to contact its local police agency and forensic laboratory to determine their specific needs or requirements.

6. On or before November thirtieth, two thousand two, the commissioner shall make a report to the governor, the temporary president of the senate and the speaker of the assembly concerning the sexual assault forensic examiner program established under subdivision four-b of this section. Such report shall include an evaluation of the efficacy of such program in obtaining useful forensic evidence in sexual offense cases and assuring quality treatment to sex offense victims. Such report shall also recommend whether this program should be expanded and shall estimate the financial cost, if any, of such expansion.

***Proposed legislation: 2011 New York Senate Bill No. 3200, New York Two Hundred Thirty-Fourth Legislative Session (Feb 11, 2011), VERSION: Introduced, PROPOSED ACTION: Amended; 2011 New York Assembly Bill No. 669, New York Two Hundred***

**Thirty-Fourth Legislative Session (Jan 05, 2011), VERSION: Introduced, PROPOSED ACTION: Amended**

## **North Carolina**

### **N.C. GEN. STAT. ANN. § 143B-480.1 (2011). ASSISTANCE PROGRAM FOR VICTIMS OF RAPE AND SEX OFFENSES**

(a) Establishment of Program.--There is established an Assistance Program for Victims of Rape and Sex Offenses, hereinafter referred to as the "Program." The Secretary shall administer and implement the Program and shall have authority over all assistance awarded through the Program. The Secretary shall promulgate rules and guidelines for the Program.

(b) Victims to Be Provided Free Forensic Medical Examinations.--It is the policy of this State to arrange for victims to obtain forensic medical examinations free of charge. Whenever a forensic medical examination is conducted as a result of a sexual assault or an attempted sexual assault that occurred in this State, the Program shall pay for the cost of the examination. A medical facility or medical professional that performs a forensic medical examination on the victim of a sexual assault or attempted sexual assault shall not seek payment for the examination except from the Program.

(c) No Billing of Victim.--A medical facility or medical professional that performs a forensic medical examination shall accept payment made under this section as payment in full of the amount owed for the cost of the examination and other eligible expenses and shall not bill victims, their personal insurance, Medicaid, Medicare, or any other collateral source for the examination. Furthermore, a medical facility or medical professional shall not seek reimbursement from the Program after one year from the date of the examination.

(d) Eligible Expenses.--Medical facilities and medical professionals who perform forensic medical examinations shall do so using a Sexual Assault Evidence Collection Kit. Payments by the Program for the forensic medical examination shall be limited to the following:

<b>Service</b>	<b>Maximum Amount Paid by Program</b>
Physician or SANE Nurse	\$350.00
Hospital/Facility Fee	\$250.00
Other Expenses Deemed Eligible by the Program	\$200.00
<b>Total:</b>	<b>\$800.00</b>

(e) Payment Directly to Provider.--The Program shall make payment directly to the medical facility or medical professional. Bills submitted to the Program for payment shall specify under which categories of expense set forth in subsection (d) of this section the billed services fall.

(f) Additional Victim Notification Requirements.--A medical facility or medical professional who performs a forensic medical examination shall encourage victims to submit an application for reimbursement of medical expenses beyond the forensic examination to the Crime Victims Compensation Commission for consideration of those expenses. Medical facilities and medical professionals shall not seek reimbursement from the Program after one year from the date of the exam.

(g) Judicial Review.--Upon an adverse determination by the Secretary on a claim for assistance under this Part, a victim is entitled to judicial review of that decision. The person seeking review shall file a petition in the Superior Court of Wake County.

(h) The Secretary shall adopt rules to encourage, whenever practical, the use of licensed registered nurses trained under G.S. 90-171.38(b) to conduct medical examinations and procedures.

(i) Definitions.--The following definitions apply in this section:

(1) Forensic medical examination.--An examination provided to a sexual assault victim by medical personnel trained to gather evidence of a sexual assault in a manner suitable for use in a court of law. The examination should include at a minimum an examination of physical trauma, a patient interview, a determination of penetration or force, and a collection and evaluation of evidence. This definition shall be interpreted consistently with 28 C.F.R. § 90.2(b) and other relevant federal law.

(2) SANE nurse.--A Sexual Assault Nurse Examiner that is a licensed registered nurse trained pursuant to G.S. 90-171.38(b) who obtains preliminary histories, conducts in-depth interviews, and conducts medical examinations of rape victims or victims of related sexual offenses.

(3) Sexual assault.--Any of the following crimes:

- a. First-degree rape as defined in G.S. 14-27.2.
- b. Second degree rape as defined in G.S. 14-27.3.
- c. First-degree sexual offense as defined in G.S. 14-27.4.
- d. Second degree sexual offense as defined in G.S. 14-27.5.
- e. Statutory rape as defined in G.S. 14-27.7A.

(4) Sexual Assault Evidence Collection Kit.--The kit assembled and paid for by the Program and used to conduct forensic medical examinations in this State.

## North Dakota

### **N.D. CENT. CODE §12.1-34-07 (2011). MEDICAL SCREENING AND ACUTE FORENSIC MEDICAL EXAMINATIONS COSTS--REIMBURSEMENT BY ATTORNEY GENERAL--USE OF EVIDENCE**

1. An acute forensic medical examination is an examination performed on an alleged victim of criminal sexual conduct for the purpose of gathering evidence of an alleged crime and is performed within ninety-six hours after the alleged crime unless good cause is shown for the delay in performing the examination. When an acute forensic medical examination is performed, the costs incurred by a health care facility or health care professional for performing the acute forensic medical examination or any preliminary medical screening examination may not be charged, either directly or through a third-party payer, to the alleged victim.

2. A child forensic medical examination is an examination performed on an alleged child victim of criminal sexual conduct for the purpose of gathering evidence of an alleged crime. When a child forensic medical examination is performed, the costs incurred by a health care facility or health care professional for performing the child forensic medical examination or any preliminary medical screening examination may not be charged, either directly or through a third-party payer, to the alleged child victim or the child's parent, guardian, or custodian.

3. Upon submission of appropriate documentation, the attorney general, within the limits of legislative appropriations, shall reimburse the health care facility or a health care professional for the reasonable costs incurred in performing the medical screening and acute forensic medical examination.

4. Evidence obtained during a medical examination under this section may not be used against an alleged victim for the prosecution of the alleged victim for a separate offense.

**REIMBURSEMENT FOR FORENSIC MEDICAL EXAMINATION (FME),**  
**[HTTP://WWW.AG.ND.GOV/FORMS/SEXASSAULTEXAM/FORMS.HTM](http://www.ag.nd.gov/forms/sexassaultexam/forms.htm)**

The victim of a sexual assault/rape is not responsible for the costs associated with the sexual assault (rape) examination, to collect and preserve evidence of the crime. The Attorney General's office provides reimbursement directly to the hospital or clinic where the examination is performed. The flat fee reimbursement is considered full payment of all expenses related to the examination, including the cost of antibiotics and other medications administered as part of the examination.

The victim is responsible, however, for the costs of additional care that is not for the collection of evidence, such as X-rays, stitches, hospitalization, pain medication or counseling. The victim may be eligible to have these additional costs paid by the North Dakota Crime Victims Compensation Fund if she reports the crime within 72 hours and cooperates with law enforcement.

*Effective April 2009:*

- A medical provider may request an additional amount for reimbursement of Emergency Medical Treatment & Labor Act (EMTALA) screening;
- Reimbursement has been extended to include non-acute examinations performed on child victims of alleged criminal sexual conduct (such as allegations of ongoing sexual abuse of a child);

*FME Reimbursement Request Form*

The FME Reimbursement Request form has been revised to reflect these changes. The new form is a 1-page triplicate form which contains a unique pre-printed number on the top right-hand side. The medical provider retains the PINK copy to track the reimbursement request and payment and submits the white and yellow copy to the Crime Laboratory (along with the required supporting documentation). The unique number on the top of the form is printed on the reimbursement check issued by this office so the medical provider can credit the payment against the corresponding request form. Instructions for proper completion and mailing are printed on the reverse of the triplicate form. The FME Reimbursement form is submitted for reimbursement independent of the rape kit. Do NOT include the completed reimbursement form with the rape kit.

## **Northern Marianas Islands**

No statutes found.

# Ohio

## OHIO REV. CODE ANN. § 2907.28 (2011). MEDICAL EXAMINATION OF VICTIM; COSTS

(A) Any cost incurred by a hospital or emergency medical facility in conducting a medical examination of a victim of an offense under any provision of sections 2907.02 to 2907.06 of the Revised Code for the purpose of gathering physical evidence for a possible prosecution, including the cost of any antibiotics administered as part of the examination, shall be paid out of the reparations fund established pursuant to section 2743.191 of the Revised Code, subject to the following conditions:

(1) The hospital or emergency facility shall follow a protocol for conducting such medical examinations that is identified by the attorney general in rule adopted in accordance with Chapter 119. of the Revised Code.

(2) The hospital or emergency facility shall submit requests for payment to the attorney general on a monthly basis, through a procedure determined by the attorney general and on forms approved by the attorney general. The requests shall identify the number of sexual assault examinations performed and shall verify that all required protocols were met for each examination form submitted for payment in the request.

(3) The attorney general shall review all requests for payment that are submitted under division (A)(2) of this section and shall submit for payment as described in division (A)(5) of this section all requests that meet the requirements of this section.

(4) The hospital or emergency facility shall accept a flat fee payment for conducting each examination in the amount determined by the attorney general pursuant to Chapter 119. of the Revised Code as payment in full for any cost incurred in conducting a medical examination and test of a victim of an offense under any provision of sections 2907.02 to 2907.06 of the Revised Code for the purpose of gathering physical evidence for a possible prosecution of a person. The attorney general shall determine a flat fee payment amount to be paid under this division that is reasonable.

(5) In approving a payment under this section, the attorney general shall order the payment against the state. The payment shall be accomplished only through the following procedure, and the procedure may be enforced through a mandamus action and a writ of mandamus directed to the appropriate official:

(a) The attorney general shall provide for payment in the amount set forth in the order.

(b) The expense of the payment of the amount described in this section shall be charged against all available unencumbered moneys in the reparations fund.

(B) No costs incurred by a hospital or emergency facility in conducting a medical examination and test of any victim of an offense under any provision of sections 2907.02 to 2907.06 of the Revised Code for the purpose of gathering physical evidence for a possible prosecution of a person shall be billed or charged directly or indirectly to the victim or the victim's insurer.

(C) Any cost incurred by a hospital or emergency medical facility in conducting a medical examination and test of any person who is charged with a violation of division (B) of section 2903.11 or of section 2907.02, 2907.03, 2907.04, 2907.05, 2907.24, 2907.241, or 2907.25 of the Revised Code or with a violation of a municipal ordinance that is substantially equivalent to that division or any of those sections, pursuant to division (B) of section 2907.27 of the Revised Code, shall be charged to and paid by the accused who undergoes the examination and test, unless the court determines that the accused is unable to pay, in which case the cost shall be charged to and paid by the municipal corporation in which the offense allegedly was committed, or charged to and paid by the county if the offense allegedly was committed within an unincorporated area. If separate counts of an alleged offense or alleged separate offenses under section 2907.02, 2907.03, 2907.04, 2907.05, 2907.24, 2907.241, or 2907.25 of the Revised Code or under a municipal ordinance that is substantially equivalent to any of those sections took place in more than one municipal corporation or more than one unincorporated area, or both, the local governments shall share the cost of the examination and test. If a hospital or other emergency medical facility has submitted charges for

the cost of a medical examination and test to an accused and has been unable to collect payment for the charges after making good faith attempts to collect for a period of six months or more, the cost shall be charged to and paid by the appropriate municipal corporation or county as specified in division (C) of this section.

**OHIO REV. CODE ANN. § 2743.191 (2011). REPARATIONS FUND; PROCEDURES FOR PAYMENT OF AWARDS BY COMMISSIONERS; PUBLICITY EXPENSES**

(A)(1) There is hereby created in the state treasury the reparations fund, which shall be used only for the following purposes:

- (a) The payment of awards of reparations that are granted by the attorney general;
  - (b) The compensation of any personnel needed by the attorney general to administer sections 2743.51 to 2743.72 of the Revised Code;
  - (c) The compensation of witnesses as provided in division (J) of section 2743.65 of the Revised Code;
  - (d) Other administrative costs of hearing and determining claims for an award of reparations by the attorney general;
  - (e) The costs of administering sections 2907.28 and 2969.01 to 2969.06 of the Revised Code;
  - (f) The costs of investigation and decision-making as certified by the attorney general;
  - (g) The provision of state financial assistance to victim assistance programs in accordance with sections 109.91 and 109.92 of the Revised Code;
  - (h) The costs of paying the expenses of sex offense-related examinations and antibiotics pursuant to section 2907.28 of the Revised Code;
  - (i) The cost of printing and distributing the pamphlet prepared by the attorney general pursuant to section 109.42 of the Revised Code;
  - (j) Subject to division (D) of section 2743.71 of the Revised Code, the costs associated with the printing and providing of information cards or other printed materials to law enforcement agencies and prosecuting authorities and with publicizing the availability of awards of reparations pursuant to section 2743.71 of the Revised Code;
  - (k) The payment of costs of administering a DNA specimen collection procedure pursuant to sections 2152.74 and 2901.07 of the Revised Code, of performing DNA analysis of those DNA specimens, and of entering the resulting DNA records regarding those analyses into the DNA database pursuant to section 109.573 of the Revised Code;
  - (l) The payment of actual costs associated with initiatives by the attorney general for the apprehension, prosecution, and accountability of offenders, and the enhancing of services to crime victims. The amount of payments made pursuant to division (A)(1)(l) of this section during any given fiscal year shall not exceed five per cent of the balance of the reparations fund at the close of the immediately previous fiscal year;
  - (m) The costs of administering the adult parole authority's supervision pursuant to division (E) of section 2971.05 of the Revised Code of sexually violent predators who are sentenced to a prison term pursuant to division (A)(3) of section 2971.03 of the Revised Code and of offenders who are sentenced to a prison term pursuant to division (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of that section;
  - (n) Subject to the limit set forth in those sections, the costs of the installation and monitoring of an electronic monitoring device used in the monitoring of a respondent pursuant to an electronic monitoring order issued by a court under division (E)(1)(b) of section 2151.34 or division (E)(1)(b) of section 2903.214 of the Revised Code if the court determines that the respondent is indigent or used in the monitoring of an offender pursuant to an electronic monitoring order issued under division (B)(5) of section 2919.27 of the Revised Code if the court determines that the offender is indigent.
- (2) All costs paid pursuant to section 2743.70 of the Revised Code, the portions of license reinstatement fees mandated by division (F)(2)(b) of section 4511.191 of the Revised Code to be credited to the fund, the portions of the proceeds of the sale of a forfeited vehicle specified in division (C)(2) of section 4503.234 of



the Revised Code, payments collected by the department of rehabilitation and correction from prisoners who voluntarily participate in an approved work and training program pursuant to division (C)(8)(b)(ii) of section 5145.16 of the Revised Code, and all moneys collected by the state pursuant to its right of subrogation provided in section 2743.72 of the Revised Code shall be deposited in the fund.

(B) In making an award of reparations, the attorney general shall render the award against the state. The award shall be accomplished only through the following procedure, and the following procedure may be enforced by writ of mandamus directed to the appropriate official:

(1) The attorney general shall provide for payment of the claimant or providers in the amount of the award only if the amount of the award is fifty dollars or more.

(2) The expense shall be charged against all available unencumbered moneys in the fund.

(3) If sufficient unencumbered moneys do not exist in the fund, the attorney general shall make application for payment of the award out of the emergency purposes account or any other appropriation for emergencies or contingencies, and payment out of this account or other appropriation shall be authorized if there are sufficient moneys greater than the sum total of then pending emergency purposes account requests or requests for releases from the other appropriations.

(4) If sufficient moneys do not exist in the account or any other appropriation for emergencies or contingencies to pay the award, the attorney general shall request the general assembly to make an appropriation sufficient to pay the award, and no payment shall be made until the appropriation has been made. The attorney general shall make this appropriation request during the current biennium and during each succeeding biennium until a sufficient appropriation is made. If, prior to the time that an appropriation is made by the general assembly pursuant to this division, the fund has sufficient unencumbered funds to pay the award or part of the award, the available funds shall be used to pay the award or part of the award, and the appropriation request shall be amended to request only sufficient funds to pay that part of the award that is unpaid.

(C) The attorney general shall not make payment on a decision or order granting an award until all appeals have been determined and all rights to appeal exhausted, except as otherwise provided in this section. If any party to a claim for an award of reparations appeals from only a portion of an award, and a remaining portion provides for the payment of money by the state, that part of the award calling for the payment of money by the state and not a subject of the appeal shall be processed for payment as described in this section.

(D) The attorney general shall prepare itemized bills for the costs of printing and distributing the pamphlet the attorney general prepares pursuant to section 109.42 of the Revised Code. The itemized bills shall set forth the name and address of the persons owed the amounts set forth in them.

(E) As used in this section, "DNA analysis" and "DNA specimen" have the same meanings as in section 109.573 of the Revised Code.

### **OHIO ADMIN. CODE 109:7-1-01 (2011). SEXUAL ASSAULT EXAMINATION PROTOCOL**

When conducting a medical examination of a victim of an offense under any provision of sections 2907.02 to 2907.06 of the Revised Code for the purpose of gathering physical evidence for a possible prosecution, including the cost of any antibiotics administered as part of the examination, a hospital, children's advocacy center, or other emergency medical facility shall follow the protocol designated in this rule and shall only use a sexual assault evidence collection kit that meets that protocol in order to qualify for payment from the reparations fund established pursuant to section 2743.191 of the Revised Code. The protocol shall be as follows:

(A) For victims other than children, the hospital or other emergency medical facility shall follow the protocol adopted by the Ohio department of health.

(B) For victims who are children, the hospital, children's advocacy center, or other emergency medical facility shall follow the protocol adopted by the committee on child abuse and neglect of the Ohio chapter of the American academy of pediatrics.

### **OHIO ADMIN. CODE 109:7-1-02 (2011). SEXUAL ASSAULT EXAMINATION PAYMENT AMOUNT**

A hospital, children's advocacy center, or other emergency medical facility shall accept a flat fee payment of five hundred dollars as payment in full for any cost incurred in conducting a medical examination and test of a victim of an offense under any provision of sections 2907.02 to 2907.06 of the Revised Code for the purpose of gathering physical evidence for a possible prosecution of a person, including the cost of any antibiotics administered as part of the examination.

The attorney general may increase the payment amount for inflation by a reasonable percentage according to the consumer price index (all urban consumers, all items) prepared by the bureau of labor statistics of the United States department of labor.

## **Oklahoma**

### **OKLA. STAT. ANN. TIT. 21, § 142.20 (2011). SEXUAL ASSAULT EXAMINATION FUND—ESTABLISHMENT**

A. A Sexual Assault Examination Fund shall be established for the purpose of providing to a victim of a sexual assault a forensic medical examination by a qualified licensed health care professional and to provide to the victim medications as directed by said health care professional.

B. As used in this section:

1. "Sexual assault" means:

a. rape, or rape by instrumentation, as defined in Sections 1111, 1111.1 and 1114 of this title, or  
b. forcible sodomy, as defined in Section 888 of this title; and

2. "Qualified licensed health care professional" means a physician, registered nurse, or other licensed health care professional qualified by training and experience to perform sexual assault examinations.

C. The Crime Victims Compensation Board is authorized to pay for this examination and the medications directed by the qualified licensed health care professional upon application submitted by the victim of a sexual assault.

D. The Crime Victims Compensation Board shall establish the procedures for disbursement of the Sexual Assault Examination Fund, but in no event shall the Crime Victims Compensation Board pay an amount to exceed:

1. Four Hundred Fifty Dollars (\$450.00) for a sexual assault examination; and

2. Fifty Dollars (\$50.00) for medications which are related to the sexual assault and directed and deemed necessary by said health care professional.

Such payments shall not exceed the amounts specified by this subsection regardless of the amount of any individual bills comprising the claim. Payments shall be made only upon claims signed by the victim or guardian and health care professional.

E. The District Attorneys Council is hereby authorized to transfer funds, as specified in the appropriations bill annually, from the Crime Victims Compensation Fund to the Sexual Assault Examination Fund for the payment of sexual assault forensic examinations and medications, pursuant to this section.

### **OKLA. ADMIN. CODE §185:15-1-1 (2011). PURPOSE**

The purpose of the Sexual Assault Examination Fund is to provide the victim of sexual assault with a forensic medical examination for the procurement of evidence to aid in the investigation and prosecution of a sexual assault offense and to provide to the victim medications as directed by the medical authority conducting the examination. Medications provided to the victim by the medical authority conducting the examination may only be provided to said victim on a one-time initial basis for the immediate trauma and medical examination of said victim. In no event shall payment from the Sexual Assault Examination Fund exceed the statutory maximum. The effective date of the Act authorizing the Sexual Assault Examination Fund was July 1, 1981.

### **OKLA. ADMIN. CODE §185:15-1-2 (2011). DEFINITIONS**

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise.

“Fund” means the Sexual Assault Examination Fund as established in Title 21 of the Oklahoma Statutes, Sections 142.19 and 142.20.

“Qualified Registered Nurse” To be considered qualified to perform a forensic sexual assault examination and receive payment through the Sexual Assault Examination Fund, Registered Nurses must be registered with the State Board of Nurse Registration and receive at least 40 hours of in-service training in the field of forensic evidence collection and rape trauma.

“Sexual assault” means:

(A) rape or rape by instrumentation, as defined in Title 21 of the Oklahoma Statutes; or

(B) forcible sodomy, as defined in Title 21 of the Oklahoma Statutes.

“Sexual assault forensic examination” means procedures performed by a physician or a Qualified Registered Nurse to collect from the body of the victim, evidence of the sexual assault. This may include vaginal swabbing, vaginal wash, taking of blood samples, pubic combing, and any other procedures requested by the investigating law enforcement agency to obtain evidence of the crime of sexual assault.

### **OKLA. ADMIN. CODE §185:15-1-3 (2011). APPLICATION BY VICTIM**

(a) In order to be eligible for payment by the fund for expenses of a sexual assault forensic examination, the victim of the crime must sign, prior to the examination, the portion of the Official Sexual Assault Examination Application provided by the Oklahoma Crime Victims Compensation Board. If the victim is

under the age of 18, or under the supervision of a legal guardian, the parent or guardian of the victim must sign the application form.

(b) The victim's application must be accompanied by a copy of an itemized statement from the medical facility where the examination was conducted and/or from the Physician or Qualified Registered Nurse, if applicable.

(c) Should medications be prescribed by the medical authority conducting the sexual assault examination, a receipt will be required prior to reimbursement of said medication. Medication fees may be included in the hospital bill, providing the medication was dispensed at the hospital.

**OKLA. ADMIN. CODE §185:15-1-4 (2011). DUTIES OF THE PHYSICIAN OR QUALIFIED REGISTERED NURSE**

(a) The physician or qualified registered nurse who conducts the forensic examination of the victim must complete and sign the portion of the Official Application for Sexual Assault Examination Payment designated "Examining Physician or Qualified Registered Nurse."

(b) The physician or qualified registered nurse is responsible for collecting the evidence in a professional manner and preserving the evidence for shipment to a law enforcement forensic laboratory in the manner designated by the law enforcement officer in charge of investigating the sexual assault of the victim.

**OKLA. ADMIN. CODE §185:15-1-6 (2011). INSURANCE**

(a) The payment of a sexual assault examination will be made, regardless of whether the victim is medically insured.

(b) In order to provide anonymity to the sexual assault victim and maintain confidentiality, any victim who has obtained a forensic sexual assault examination, will not be required to provide information to the Board relative to employment or insurance; and, shall not be required to file a claim with any private insurance company for the payment of a forensic sexual assault examination.

(c) If the victim or claimant chooses to file an insurance claim for the sexual assault examination, reimbursement should be made to the Sexual Assault Examination Fund upon payment from the insurance company.

(d) For sexual assault exams performed on adults and children, Medicaid or any other federally funded program is considered a collateral source and payment will not be made unless the denial of benefits is provided.

**OKLA. ADMIN. CODE §185:15-1-7 (2011). LIMITATION OF PAYMENT BY THE FUND**

(a) In all cases, the maximum payment by the fund for any one forensic sexual assault examination shall not exceed the statutory maximum.

(b) Payments from the Fund shall be made directly to the medical facility where the examination was performed.

(c) Under no circumstances shall the Fund make any payment for the expenses of medical treatment of the victim, or for any other expense other than the expense of the forensic sexual assault examination, unless authorized by statute.

(d) In the event there is a fee from the physician or a qualified registered nurse, as well as a bill from the hospital, the statutory maximum shall be prorated between both service providers if both bills are submitted at the same time.

### **OKLA. ADMIN. CODE §317:30-5-13 (2011). RAPE AND ABUSE EXAMS**

When a rape/abuse exam is performed on a child with SoonerCare benefits, a claim is filed with the fiscal agent. Payment is made for the rape/abuse exam and medically necessary procedures as per recognized coding guidelines.

(1) Supplies used during an exam for rape or abuse may be billed. Appropriate HCPCS and diagnosis codes are used.

(2) If the child is in custody as reported by the Oklahoma Department of Human Services but does not have SoonerCare benefits, or the child is not in custody and the parents are unable or unwilling to assume payment responsibility, the social worker obtains from the physician a completed OKDHS form 10AD012, Claim Form. The 10AD012 form is routed according to procedures established by the Oklahoma Department of Human Services, Division of Children and Family Services.

## **Oregon**

### **OR. REV. STAT. § 147.397 (2011). COSTS; FORM; REIMBURSEMENTS FOR PROVIDERS**

(1) Subject to the availability of funds from gifts, grants and donations in the Sexual Assault Victims' Emergency Medical Response Fund, the Department of Justice shall pay the costs of:

(a) A complete medical assessment obtained by the victim of a sexual assault if the victim obtains the medical assessment no later than 84 hours after the sexual assault.

(b) A partial medical assessment obtained by the victim of a sexual assault if the victim obtains the medical assessment no later than seven days after the sexual assault.

(2) The department may not deny payment under this section for any of the following reasons:

(a) The victim of a sexual assault has not reported the assault to a law enforcement agency.

(b) The identity of a victim of a sexual assault is not readily available to the department because forensic evidence has been collected from the victim and preserved in a manner intended to protect the victim's identity.

(3) The department shall develop a form that the victim of a sexual assault must complete if the victim wants the department to pay for a medical assessment as provided in subsection (1) of this section. The department shall make copies of the form available to providers of medical assessments. The form must inform the victim that:

(a) A complete or partial medical assessment can be obtained regardless of whether the victim reports the assault to a law enforcement agency; and

(b) A complete or partial medical assessment can be performed and evidence collected in a manner intended to protect the victim's identity.

(4) When the victim of a sexual assault completes the form developed by the department under subsection (3) of this section, the victim shall submit the form to the provider of the medical assessment. The provider shall submit the form with a bill for the medical assessment to the department. A provider who submits a bill under this subsection may not bill the victim or the victim's insurance carrier for the medical assessment except to the extent that the department is unable to pay the bill due to lack of funds or declines to pay the bill.

(5) Providers of medical assessments that seek reimbursement under this section shall:

(a) Maintain records of medical assessments that protect the identity of victims of sexual assault and keep confidential the identity of victims who have not reported the sexual assault to a law enforcement agency;

(b) Store forensic evidence collection kits and transfer custody of the kits to a law enforcement agency having jurisdiction over the geographic area where the provider is located; and

(c) Cooperate with law enforcement agencies to develop and implement procedures that protect the identities of victims while allowing retrieval and assessment of evidence collection kits and related evidence.

(6) Law enforcement agencies that receive evidence collection kits as provided by subsection (5) of this section shall preserve the kits and any related evidence for at least six months.

(7) A provider may not charge the department more for a complete medical assessment or a partial medical assessment than the maximum amounts established by the department by rule for the assessments.

(8) The victim of a sexual assault may obtain a medical assessment and complete and submit a form under this section regardless of whether the victim reports the sexual assault to a law enforcement agency.

(9) This section does not require the department to pay any costs of treatment for injuries resulting from the sexual assault.

(10) The department may adopt rules necessary to carry out the provisions of this section.

#### **OR. REV. STAT. § 147.399 (2011). SEXUAL ASSAULT VICTIMS' EMERGENCY MEDICAL RESPONSE FUND; ESTABLISHMENT**

(1) The Sexual Assault Victims' Emergency Medical Response Fund is established, separate and distinct from the General Fund. All moneys in the Sexual Assault Victims' Emergency Medical Response Fund are continuously appropriated to the Department of Justice to be used for the purpose of carrying out the provisions of ORS 147.397.

(2) The Department of Justice may accept moneys from any source for the purpose of carrying out the provisions of ORS 147.397. The department shall deposit moneys accepted under this subsection in the Sexual Assault Victims' Emergency Medical Response Fund.

#### **OR. ADMIN. R. 137-084-0010 (2011). CLAIMS PROCESSING**

(1) A victim of a sexual assault who wants the Fund to pay for a medical examination, collection of forensic evidence using the Oregon State Police SAFE Kit, emergency contraception, or sexually transmitted disease prophylaxis must submit a completed Application Form to the victim's medical services provider. (A copy of the Application Form is set out as an Appendix to these administrative rules).

(2) To obtain payment from the Fund, an eligible medical services provider must submit the Application Form to the Department within one year of the date the medical services are provided.

(3) All medical services invoices must be submitted by the eligible medical services provider with the Application Form. Invoices submitted separately will not be processed.

(4) To be paid for by the Fund, a complete medical assessment using the Oregon State Police SAFE Kit must be completed within 84 hours (three and one-half days) of the sexual assault. The Kit must have been released to appropriate law enforcement personnel in a timely manner after its use for collection of information.

(5) To be paid for by the Fund, a partial medical assessment must be completed within 168 hours (seven days) of the sexual assault of the victim.

(6) Completed Application Forms submitted with medical services invoices will be processed for payment by the Fund within 60 days of submission.

### **OR. ADMIN. R. 137-084-0020 (2011). MAXIMUM AMOUNTS PAID FOR MEDICAL SERVICES**

(1) The Fund will pay eligible medical services providers the actual costs incurred for providing medical services to sexual assault victims up to the following maximum amounts:

(a) \$380 for a medical examination plus collection of forensic evidence using the Oregon State Police SAFE Kit;

(b) \$175 for a medical examination without collection of forensic evidence using the Oregon State Police SAFE Kit;

(c) \$55 for emergency contraception (including urine pregnancy test);

(d) \$100 for sexually transmitted disease prophylaxis.

(2) An additional payment of \$75 will be made to eligible medical services providers who document that the medical examination, as part of either a partial or complete medical assessment, was conducted by a SANE certified nurse.

(3) The payment amounts set out in this rule will be reviewed at least every two years by the Attorney General or the Attorney General's designee to determine whether they should be adjusted to meet current circumstances.

(4) An eligible medical services provider (including subcontractor or other designee) who submits a bill to the Fund under these rules may not bill the victim or the victim's insurance carrier for a medical examination, collection of forensic evidence using the Oregon State Police SAFE Kit, emergency contraception, or sexually transmitted disease prophylaxis, except to the extent the Department is unable to pay the bill due to lack of funds or declines to pay the bill for reasons other than untimely or incomplete submission of the bill to the Fund under OAR 137-084-0030(2)(e).

### **OR. ADMIN. R. 137-084-0030 (2011). PAYMENT RESTRICTIONS AND DISQUALIFICATIONS**

(1) The Fund will not pay for any service not specifically described in 2003 Oregon Laws, Ch. 789 or OAR 137-084-0001 through 137-084-0030. Examples of services not covered by the Fund include, but are not limited to: treatment of injuries; DNA testing; HIV testing; laboratory testing of blood for any purpose; and

prescriptions filled off-site of the location of a medical examination. Nothing in this rule is intended to preclude an eligible medical services provider from submitting a claim against the victim, the victim's insurance carrier or any other source for payment for services not specifically described in 2003 Oregon Laws, Ch. 789 or OAR 137-084-0001 through 137-084-0030.

(2) The Fund reserves the right not to pay for medical services described in 2003 Oregon Laws, Ch. 789 or OAR 137-084-0001 through 137-084-0030 for any one of the following reasons:

(a) Services were not provided by an eligible medical services provider.

(b) Services were provided to someone other than an eligible victim.

(c) Services were not provided in accordance with the requirements in 2003 Oregon Laws, Ch. 789 or OAR 137-084-0001 through 137-084-0030, including the timeliness requirements for complete medical assessments (within 84 hours (three and one-half days) of the sexual assault) and partial medical assessments (within 168 hours (seven days) of the sexual assault).

(d) Services provided were duplicate services for the same incident.

(e) Failure of the eligible medical services provider to submit a completed Application Form, submission of incomplete invoice(s) for medical services or submission of the Application Form or invoice(s) for medical services more than one year after date services provided.

(f) Insufficient funds in the Fund to cover the services provided. The Fund will pay in full for services provided and billed to the Fund until the money in the Fund is exhausted.

(3) If the Attorney General or the Attorney General's designee determines that the Fund will not pay for one or more of the services described in 2003 Oregon Laws, Ch. 789 or OAR 137-084-0020(1) and (2) for reasons other than those set out in 137-084-0030(2)(e) above, the Attorney General or the Attorney General's designee will provide notice to the medical services provider(s) affected. After receiving such notice, a medical services provider may bill the victim, the victim's insurance carrier or any other source for those medical services provided but not paid for by the Fund.

## **Pennsylvania**

### **18 PA. CONS. STAT. § 11.707 (2011). AWARDS**

(a) Requirements.--No award shall be made unless it is determined by a preponderance of the evidence that:

(1) A crime was committed.

(2) The person injured or killed was a direct victim or intervenor.

(3) The crime was promptly reported to the proper authorities. In no case may an award be made if the record shows that the report was made more than 72 hours after the occurrence of the crime unless:

(i) the victim is under 18 years of age at the time of the occurrence of the crime and the alleged offender is the victim's parent or a person responsible for the victim's welfare, an individual residing in the same home as the victim or a paramour of the victim's parent; or

(ii) the Office of Victims' Services finds the delay to have been justified, consistent with bureau regulations.

(4) The direct victim, intervenor or claimant has fully cooperated with all law enforcement agencies and the Office of Victims' Services unless the Office of Victims' Services finds the noncompliance to have been justified consistent with Office of Victims' Services regulations.

(a.1) Protection from abuse.--A claimant who satisfies the eligibility requirements of subsection (a)(1), (2) and (4) may satisfy the eligibility requirement under subsection (a)(3) for reporting a crime to the proper



authorities by commencing an action brought in accordance with 23 Pa.C.S. Ch. 61 (relating to protection from abuse) and as provided for in the Pennsylvania Rules of Civil Procedure. In no case may an award be made if the record shows that the petition was:

- (1) Withdrawn, unless the Office of Victim Services finds the withdrawal to have been justified, consistent with regulations of the Office of Victim Services.
- (2) Filed more than 72 hours after the occurrence of the criminal conduct leading to the commencement of the action, unless:
  - (i) the victim is under 18 years of age at the time of the occurrence of the criminal conduct and the alleged offender is the victim's parent or a person responsible for the victim's welfare, an individual residing in the same home as the victim or a paramour of the victim's parent; or
  - (ii) the Office of Victim Services finds the delay to have been justified, consistent with regulations of the Office of Victim Services.

(b) Amount.--

(1) Any award made under this chapter shall be in an amount not exceeding out-of-pocket loss, together with loss of past, present or future earnings or support resulting from such injury. In no case shall the total amount of an award exceed \$35,000 except for payment of the following:

- (i) counseling, the maximum amount of which shall be in accordance with paragraph (4.1);
- (ii) forensic rape examination and medications directly related to the sexual assault or rape, the amount of which shall not exceed \$1,000; or
- (iii) reasonable and necessary costs of cleaning the crime scene of a private residence, the amount of which shall not exceed \$500.

(2) An award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this chapter, be in an amount equal to the actual loss sustained. The following shall apply:

- (i) No such award shall exceed the average weekly wage for all persons covered by the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L. 2897, No. 1), [FN1] known as the Unemployment Compensation Law, in this Commonwealth as determined annually by the Department of Labor and Industry for each week of lost earnings or support.
  - (ii) Except as set forth in subparagraph (iii), the aggregate award for the loss shall not exceed \$15,000.
  - (iii) In the case of death of a direct victim or intervenor, the aggregate award shall not exceed \$20,000.
- (3) If an order of restitution has been entered on behalf of the direct victim, those amounts actually collected shall be applied first to property losses incident to the crime and secondly to personal injury losses as set forth in subsection (f).

(4) An award for counseling performed by or under the supervision of a psychiatrist, psychologist, licensed professional counselor or licensed social worker and subject to the provisions of paragraph (4.1) may be made to:

- (i) a direct victim;
- (ii) an individual responsible for the direct victim's welfare;
- (iii) an individual who is physically present at the crime scene and witnesses a violent crime;
- (iv) in the case of a homicide, an individual who discovers the body;
- (v) anyone related to the direct victim within the second degree of consanguinity or affinity;
- (vi) anyone maintaining a common-law relationship with the direct victim;
- (vii) anyone residing in the same household with the direct victim; or
- (viii) anyone engaged to be married to the direct victim.

(4.1) In the case of an award made pursuant to paragraph (4), the following shall apply:

- (i) The amount of an award under paragraph (4)(i) shall not exceed \$5,000 where the direct victim is an adult and shall not exceed \$10,000 where the direct victim is a minor.
- (ii) The amount of an award under paragraph (4)(ii), (v), (vi), (vii) or (viii) shall not exceed \$2,500 except in the case of a homicide whereby the amount of this award shall not exceed \$5,000.
- (iii) The amount of an award under paragraph (4)(iii) or

(iv) shall not exceed \$1,500.

(5) An award for the reasonable and necessary costs for the replacement of prosthetic devices, wheelchairs, canes, walkers, hearing aids, eyeglasses or other corrective lenses, dental devices or prescription medications damaged or stolen as a result of the crime shall be at a rate set by the Office of Victims' Services. Expenses for prosthetic devices, wheelchairs, canes, walkers, hearing aids, eyeglasses or other corrective lenses, dental devices or prescription medications needed as a result of the crime shall be counted against the \$35,000 award limitation.

(c) Public assistance.-- Provisions of awards made pursuant to a statute compensating or benefiting a direct victim or claimant shall in no way affect the claimant's or direct victim's eligibility under public assistance or any other Federal or Commonwealth social benefit or assistance program.

(d) Apportionment.-- If there are two or more individuals entitled to an award as a result of the death of a direct victim or intervenor, the award shall be apportioned among the claimants.

(e) Reduction.-- Except as otherwise provided in this act, an award made under this chapter shall be reduced by the amount of any payments received or to be received by the claimant as a result of the injury:

(1) from or on behalf of the individual who committed the crime;

(2) under any insurance or health and welfare programs, including those mandated by law;

(3) under any contract of insurance wherein the claimant is the beneficiary;

(4) from public funds;

(5) as an emergency award under section 706; [FN2]

(6) under any pension program, including those providing for disability or survivor's benefits; or

(7) under a settlement or award made by or on behalf of a party alleged to be responsible in whole or in part for the injury, without regard to the party's criminal culpability.

(f) Direct victim responsibility.--

(1) Except as set forth in paragraphs (2) and (3), in determining the amount of an award, the Office of Victims' Services shall determine whether the direct victim or intervenor, because of conduct, contributed to the infliction of the injury. The Office of Victims' Services shall reduce the amount or deny the claim altogether in accordance with the determination.

(2) If the crime involved is rape or sexual assault, the conduct of the direct victim shall not be considered. If the crime involved is related to domestic violence, the conduct of the direct victim shall not be considered unless the direct victim was the primary aggressor.

(3) If the crime involved is a homicide, the conduct of the direct victim shall not be considered for claims by eligible claimants for counseling.

(g) Intervenor responsibility.-- In determining the amount of an award to an intervenor, the Office of Victims' Services may consider whether the intervenor, because of conduct, contributed to the infliction of the injury. The Office of Victims' Services shall reduce the amount or deny the claim altogether in accordance with the determination.

(h) Forensic rape investigation.--

(1) A hospital or other licensed health care provider may submit a claim for reimbursement for the cost of a forensic rape examination if the cost is not covered by insurance or if the victim requests that the insurance carrier not be billed. Upon filing of a claim, the Office of Victims' Services shall promptly notify the prosecutor of the county where the crime is alleged to have occurred. The reimbursement, where applicable, shall be at a rate set by the Office of Victims' Services.

(2) The cost of a forensic rape examination and the cost of medications prescribed to the direct victim shall not be charged to the victim.

(3) A sexual assault or rape victim need not be an applicant for any other compensation under this chapter.

Current through 2011 Acts 1 to 81

#### **42 PA. CONS. STAT. ANN. § 1726.1 (2011). FORENSIC EXAMINATION COSTS FOR SEXUAL OFFENSES**

The cost of a forensic rape examination or other physical examination conducted for the purpose of gathering evidence in any criminal investigation and prosecution under 18 Pa.C.S. Ch. 31 (relating to sexual offenses) and the cost to provide medications prescribed to the victim therein shall not be charged to the victim. If appropriate insurance is unavailable, reimbursement may be sought pursuant to the provisions of section 477.9 of the act of April 9, 1929 (P.L. 177, No. 175), known as The Administrative Code of 1929. [FN1]

#### **28 PA. CODE § 117.56 (2011). INFORMATION REGARDING PAYMENT FOR SEXUAL ASSAULT EMERGENCY SERVICES.**

A hospital shall inform a sexual assault victim receiving sexual assault emergency services at the hospital of the availability of known financial resources for services provided to the victim due to the sexual assault, including payments by the victim's medical insurer, if applicable, the Victim's Compensation Assistance Program administered by the Pennsylvania Commission on Crime and Delinquency, government programs, public assistance programs and programs administered by the hospital. The hospital shall provide the victim any information required to secure the services, including copies of itemized bills and medical records.

Current through Pennsylvania Bulletin, Vol. 41, Num. 48, dated November 26, 2011.

#### **37 PA. CODE § 411.41 (2011). AMOUNT.**

An award made under the act and this chapter will be in an amount not exceeding out-of-pocket loss, together with loss of past, present or future earnings or support resulting from the injury. The total amount of an award may not exceed \$35,000 except for payment of the following:

- (1) Counseling, the maximum amount of which must be in accordance with section 707(b)(4.1) of the act. (18 P. S. § 11.707(b) (4.1))
- (2) Forensic rape examination and medications directly related to the sexual offense, the amount of which may not exceed \$1,000.
- (3) Reasonable and necessary costs of cleaning the crime scene of a private residence, the amount of which may not exceed \$500.

Current through Pennsylvania Bulletin, Vol. 41, Num. 48, dated November 26, 2011.

#### **37 PA CODE § 411.42 OUT-OF-POCKET LOSS.**

(a) General. The following general provisions apply to reimbursement for out-of-pocket loss.

- (1) OVS may make a monetary award for an out-of-pocket loss as it is defined in the act.
- (2) OVS may pay the service provider directly or reimburse the claimant for amounts paid, as applicable.

(b) Medical expenses. The following provisions for payment of medical expenses apply:

- (1) OVS will pay a hospital or other licensed health care provider at the rate of 65% of the usual and customary charge for the service rendered.
- (2) This rate will apply to any bill for services incurred on or after \_\_\_ (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.).
- (3) Forensic rape examinations.
  - (i) OVS will reimburse a maximum of \$1,000 to a hospital or other licensed health care provider, or both, for a forensic rape examination and medications directly related to the sexual offense.
  - (ii) The reimbursement will not include expenses for analyzing collected evidence for DNA or presence of Rohypnol or other similar drugs.
  - (iii) Claims shall be filed with OVS no later than 1 year after the date of the crime.
  - (iv) OVS will reimburse a direct victim who is erroneously billed and subsequently pays the cost of the forensic rape examination or medications directly related to the sexual offense. The reimbursement will be subject to the \$1,000 monetary limitation.

(c) Funeral expenses. Except as otherwise set forth in this subsection, OVS will reimburse for expenses relating to a funeral of a direct victim or intervenor. The total reimbursement amount for funeral expenses will not exceed \$6,500.

Funeral expenses to be reimbursed are as follows:

- (i) Cremation.
- (ii) Interment.
- (iii) Body preparation including embalming.
- (iv) Grave opening and closing.
- (v) Cemetery plot, tent and chairs.
- (vi) Mausoleum.
- (vii) Viewing services and facilities.
- (viii) Automotive equipment, such as the hearse, limousine and flower car.
- (ix) Death announcements, prayer cards, register book and thank you cards.
- (x) Casket or urn.
- (xi) Minister, pastor, rabbi or other members of the clergy.
- (xii) Monument.
- (xiii) Floral arrangements.
- (xiv) Funeral or memorial meal.
- (xv) Clothing purchased for the deceased for the funeral or interment.
- (xvi) Other miscellaneous expenses, including organist, programs, death certificates, obituary notice and notice of the time and place of the funeral or burial services.

(d) Replacement of personal health-related items damaged or stolen as a result of a crime. Except as otherwise set forth in this subsection, OVS will reimburse a claimant for costs for the replacement of each prosthetic device, wheelchair, cane, walker, hearing aid, eyeglasses or other corrective lenses, dental device or prescription medications. Reimbursement will not exceed \$1,000 and will be subject to the following limitations:

- (1) Two hundred dollars for eyeglass frames.
- (2) One thousand dollars for replacement of all combined prescription medications stolen or damaged in a single crime incident.
- (3) One hundred dollars for replacement of canes.
- (4) Two hundred fifty dollars for replacement for walkers.

(e) Counseling. OVS will pay expenses of counseling performed by or under the supervision of a psychiatrist, psychologist, licensed professional counselor or licensed social worker to claimants as follows:

- (1) A maximum of \$10,000 in total expenses of a direct victim who was under 18 years of age upon the occurrence of the crime.
- (2) A maximum of \$5,000 in total expenses of a direct victim who was 18 years of age or older upon the occurrence of the crime.
- (3) A maximum of \$5,000 in total expenses of any of the following individuals affected by the homicide of a direct victim:
  - (i) An individual responsible for the welfare of the direct victim, which includes legal guardians and foster parents.
  - (ii) An individual related in the second degree of consanguinity or affinity to the direct victim.
  - (iii) An individual residing in the same household with the direct victim.
  - (iv) An individual engaged to be married to the direct victim.
- (4) A maximum of \$2,500 in total expenses of any of the individuals described in paragraph (3) affected by a crime against a direct victim that is not a homicide.
- (5) A maximum of \$1,500 in total expenses of an individual who:
  - (i) Is physically present at a crime scene and witnesses a violent crime.
  - (ii) Discovers the body in a homicide.
- (6) For counseling expenses relating to a homicide, OVS may not reduce the amount of the award or deny the reimbursement due to the conduct of the direct victim.

(f) Relocation expenses. OVS will reimburse for expenses incurred by the temporary or permanent relocation of a direct victim and individuals residing in the direct victim's household when immediate relocation is necessary to protect their health and safety. This reimbursement will not exceed \$1,000 per household for each direct victim for the following:

- (1) Relocation expenses to be reimbursed are as follows:
  - (i) Lodging to a daily maximum of \$75.
  - (ii) Rental of substitute living quarters.
  - (iii) Utility connection fees, which do not include cable.
  - (iv) Rental of a passenger vehicle for a total daily maximum of \$30.
  - (v) Private vehicle usage at mileage rate currently paid by the Commonwealth to its own employees for travel.
  - (vi) Common carrier fares.
  - (vii) Moving company charges or van rental.
  - (viii) Tolls and parking expenses.
  - (ix) Rental of post office box.
  - (x) Charges for storage of personal belongings.
  - (xi) Child care expenses
- (2) Reimbursement will be made only when a medical provider, human services provider or law enforcement representative, which may include a district attorney or other prosecutorial agency, verifies the immediate need for relocation.
- (3) OVS may consider a delay past the prescribed immediate need time period to be justified when the direct victim, intervenor or claimant is mentally or physically incapacitated, there is a fear of retaliation or other circumstances when good cause is shown by the claimant.

(g) Travel expenses. OVS will reimburse expenses associated with travel necessary and reasonable as determined by OVS to obtain medical care or counseling, attend or participate in criminal justice or protection from abuse proceedings, and other circumstances when good cause is shown by the claimant. In the case of an injury that results in death, for travel in connection with making the funeral arrangements , transport of the body and attendance of funeral services as follows:

- (1) Meals totaling no more than \$28 per day, with no more than \$6 for breakfast, \$6 for lunch and \$16 for dinner.
- (2) Lodging to a daily maximum of \$75.
- (3) Private vehicle usage at mileage rate currently paid by the Commonwealth to its own employees.
- (4) Vehicle rental to a daily maximum of \$30.
- (5) Payment of a driver other than common carriers needed as result of a crime at maximum hourly rate of \$8.
- (6) Common carrier fares in full.
- (7) Tolls and parking expenses.
- (8) Meals and lodging reimbursement, limited to trips of 50 miles or more from the eligible person's home.
- (9) Containers or other necessary requirements to transport the body.
- (10) In the case of an injury that results in death, for travel in connection with the transport of the body, making funeral arrangements and attending the funeral services not to exceed 5 days.

(h) Crime scene clean up. The cost of cleaning the crime scene of a private residence up to a maximum of \$500.

(1) Reimbursement will be limited to the cost of cleaning supplies purchased for the purpose of cleaning the scene, the cost of any necessary equipment purchased or rented and the cost of professional labor for the purpose of cleaning the crime scene.

(2) Multiple private residences may each be considered for crime scene cleanup if the sites are identified in the police report. The maximum award amount for each crime scene cleanup is \$500.

(3) Cleaning means to remove or attempt to remove blood and stains caused by bodily fluids, food, paint or other materials used to deface property as a direct result of the crime or other dirt or debris caused by the processing of the crime scene.

(4) Stains deliberately caused by acts of vandalism and other intentional acts are property damage which is expressly excluded from the definition of "out of pocket loss" contained in the act.

(i) Miscellaneous expenses. OVS may reimburse a claimant for other services reasonably necessary, including the following:

(1) The purchase or rental of nonmedical remedial care or products that are needed to assist in normal, daily life functions and are prescribed or recommended by a health care provider, such as a wheel chair ramp, lifts or other special accommodations, including equipment or robotic devices needed to assist in normal, daily life functions.

(2) The cost of obtaining services needed as a result of the crime such as laundering, cleaning, child care, administration of medication, food shopping and meal preparation.

(i) Members of the family of the direct victim or intervenor engaged to perform the services will be paid their net loss of earnings not to exceed the average weekly wage and if not otherwise reimbursed for the loss of earnings.

(ii) Individuals engaged to perform services who are not family members will be paid a maximum hourly rate of \$8.

(3) At the discretion of OVS, telephone and television expenses incurred in connection with inpatient care of the direct victim or intervenor due to the injury.

(4) At the discretion of OVS, charges incurred for records, products or services including those for rehabilitation, rehabilitative occupational training, other remedial treatment and care, tutors and interpreters.

Current through Pennsylvania Bulletin, Vol. 41, Num. 48, dated November 26, 2011.

## **35 PA. CONST. STAT. § 10172.3 SEXUAL ASSAULT EVIDENCE COLLECTION PROGRAM**

(a) Establishment.--There is hereby established a Statewide sexual assault evidence collection program to promote the health and safety of victims of sexual assault and to facilitate the prosecution of persons accused of sexual assault. This program shall be administered by the Department of Health. Under this program the Department of Health shall:

- (1) Consult with PCAR and the Pennsylvania State Police to develop minimum standard requirements for all rape kits used in hospitals and health care facilities in this Commonwealth.
- (2) Test and approve commercially available rape kits for use in this Commonwealth.
- (3) Review the minimum standard requirements for rape kits and prior-approved rape kits every three years to assure that rape kits meet state-of-the-art minimum standards.
- (4) Consult with PCAR, the Pennsylvania State Police, the International Association of Forensic Nurses, the Hospital and Healthsystem Association of Pennsylvania and any local SART to establish a program to train hospital, child advocacy center and health care facility personnel in the correct use and application of rape kits in order to maximize the health and safety of the victim and the potential to collect useful admissible evidence to prosecute persons accused of sexual assault.

(b) Duties of Pennsylvania State Police.--

- (1) When requested by local law enforcement, district attorneys or the Office of Attorney General, the Pennsylvania State Police shall ensure that the analysis and laboratory testing of collected evidence, including samples that may contain traces of a date rape drug, are accomplished. The cost of the testing or analysis shall not be the responsibility of the Pennsylvania State Police.
- (2) The Pennsylvania State Police shall include, as part of existing training programs for local law enforcement, training to ensure that the chain of custody of all rape kits is established to minimize any risk of tampering with evidence included in the rape kit and to ensure that all useful and proper evidence in addition to the rape kit is collected at the hospital or health care facility.

Current through 2011 Acts 1 to 81

## **Puerto Rico**

### **P.R. LAWS ANN. TIT. 25, § 981D (2011). ELIGIBLE PERSONS**

The Office may grant compensation for damages suffered from the commission of one or more of the following crimes or the attempt thereof:

- (a) Murder.
- (b) Manslaughter.
- (c) Negligent homicide.
- (d) Sexual assault.
- (e) Kidnapping.
- (f) Aggravated kidnapping.
- (g) Child abduction.
- (h) Domestic violence.
- (i) Child abuse.
- (j) Aggravated assault in the third degree.
- (k) Lewd acts.

(l) Aggravated robbery when physical injury is inflicted to the victim.

The provisions of this section shall also be applicable to the prosecution of minors for the commission of faults in which conditions equivalent to those listed in this section are present. Likewise, the Office may also grant compensation for damages suffered from the commission, within the jurisdiction of the Commonwealth of Puerto Rico, of any federal crimes or the attempts thereof, which are the equivalent of the crimes listed in this section.

## Rhode Island

### **R.I. GEN. LAWS § 23-17-26 (2011). EMERGENCY HEALTH CARE**

(a) Every health care facility that has an emergency medical care unit shall provide to every person prompt life saving medical care treatment in an emergency, and a sexual assault examination for victims of sexual assault without discrimination on account of economic status or source of payment, and without delaying treatment for the purpose of a prior discussion of the source of payment unless the delay can be imposed without material risk to the health of the person.

(b) Violations of this section shall be reported to the director of the state department of health who shall investigate the violations as the director deems appropriate.

Current through chapter 407 of the January 2011 session

### **R.I. CODE §29-1-5:1.05 (2011). PERSONS ELIGIBLE FOR COMPENSATION**

(1) Persons Eligible: The following persons are eligible for compensation:

- (a) victims as defined in Section 1.03(17);
- (b) dependents and relatives of a victim who dies as a direct result of violent crime as provided in R.I.G.L. 12-25-19(b)(3);
- (c) parent, spouse, minor sibling, or minor child of a victim who dies as a direct result of a violent crime as provided in R.I.G.L. section 12-25-21(2) (c);
- (d) legal guardians of the victim;
- (e) child advocate as provided in R.I.G.L. section 42-73-9.1; and
- (f) legal representatives of the victim's estate in the case of the victim's death.

(2) Persons Ineligible: The following persons are ineligible for compensation:

- (a) applicant attempting to derive rights from a person who was not an eligible victim pursuant to R.I.G.L. sections 12-25-1 et. seq.;
- (b) persons injured while serving time in any federal, state, county or city jail, prison, correctional facility or criminal institution;
- (c) persons injured during the performance of their duty whose occupations inherently entail high risk hazards. Such occupations include, but are not limited to, police officers, correctional officers, security guards, and firefighters.

Current with amendments through April 30, 2011.



## **R.I. CODE §29-1-5:1.06 (2011). ELIGIBILITY REQUIREMENTS**

A person eligible for compensation must satisfy each of the following conditions:

(1) **Timely Filing of Application:** An application for compensation pursuant to the 1996 act must be filed within one (1) year after the date of the personal injury or death of the victim if the personal injury or death occurred prior to September 1, 1999. An application for compensation pursuant to the 1999 amendments to the Criminal Injuries Compensation Act of 1996 must be filed within three (3) years after the date of the personal injury or death of the victim if the personal injury or death occurred on or after September 1, 1999. The filing period shall commence on the date the crime was committed, except in the following circumstances;

(a) If the victim was a minor when the crime was committed and the crime did not result in the death of the minor, that is, the victim suffered personal injury, the filing period shall not commence until the victim reaches the age of eighteen. For applications based on the personal injury of a minor victim, the application must be filed within one year after the date on which the minor victim reaches the age of eighteen if the personal injury occurred between August 21, 1996 and August 31, 1999. If the personal injury to the minor victim occurred on or after September 1, 1999, then the application must be filed within three years after the date on which the minor victim reaches the age of eighteen. For applications based on the death of a minor victim, the application must be filed within one year after the date of death of the minor, if the death occurred between August 21, 1996 and August 31, 1999, or within three years after the date of death of the minor if the death occurred on or after September 1, 1999;

(b) If the applicant did not discover the act which constitutes a crime until more than one year after the crime was committed, the filing period shall not commence until the applicant discovered or, in exercise of reasonable diligence, should have discovered, the act which constitutes a crime, provided, however, that in such cases, the crime for which the applicant seeks compensation must have resulted in the issuance of a criminal complaint, indictment or criminal information, or other judicial determination of probable cause that an act constituting a crime occurred;

(c) office may allow an application for compensation to be filed with the office after the expiration of the statute of limitations if the victim was of unsound mind or for good cause shown. Delay resulting from the lack of knowledge of the filing requirements of R.I.G.L. section 12-25-1, et seq. shall not constitute good cause.

(d) If more than one of the exceptions described in Section 1.06(1) applies, the application may be filed within the longest time period permitted by Section 1.06(1).

(2) **Reporting of Crime to Law Enforcement:** An applicant must demonstrate that the crime for which he/she seeks compensation was reported to police or other appropriate law enforcement authorities, or to an agency or entity obligated by law to report complaints of criminal misconduct to law enforcement authorities.

(a) Appropriate law enforcement authorities to whom a crime may be reported include: federal, state or local police; school, college or university police.

(b) Crimes involving minor victims may be reported to the Department of Children, Youth and Families pursuant to the reporting requirements of R.I.G.L. sections 40-11-3 and 40-11-3.1. All other crimes must be reported to law enforcement authorities specified in Section 1.06(2) (a) or (c).

(c) The reporting of a crime to a court through a citizen application for a restraining order under R.I.G.L. section 15-15-3 accompanied by an affidavit in support of the application for protection, or through a citizen application for a criminal complaint, shall constitute a report to law enforcement authorities.

(d) Reports to private security personnel, rape crisis centers, rescue personnel, or the Crime Victim Compensation Program do not constitute reports to law enforcement authorities.

(e) Crimes involving victims of sexual assault may be reported to a Sexual Assault Nurse Examiner or other medical professional for compensation related to the costs of forensic sexual assault exams pursuant to Section 1.06 (2) Reporting to Law Enforcement and R.I.G.L. Section 12-25-22 (a).

(3) Timeliness of Report to Law Enforcement Authorities: An applicant must demonstrate that the crime was reported within ten (10) days of its occurrence except where the administrator finds good cause for delay.

(a) A crime is reported within ten days of its occurrence if it is reported within ten days of when the crime was discovered, or reasonably should have been discovered.

(b) Good cause for delay shall include, but not be limited to, delay caused by physical or psychological incapacity which prevented the making of a report; or by reasonable fear of retaliation by the offender or others.

(c) Delay resulting from a belief that law enforcement authorities will not investigate the crime, or delay resulting from lack of knowledge that an award under R.I.G.L. section 12-25-1 et. seq. is contingent upon reporting the crime to law enforcement authorities, does not constitute good cause for delay.

(d) A finding of good cause for delay does not excuse the reporting requirement which must be satisfied as a condition of receiving compensation.

(4) Cooperation with Law Enforcement: A victim must cooperate with the reasonable requests of law enforcement agencies and personnel in the investigation and prosecution of the crime.

Victim's obligations: Cooperation with law enforcement agencies and personnel includes reporting the crime to law enforcement authorities; assisting in identifying the suspect; and complying with all reasonable requests of law enforcement agencies and personnel for information and assistance. Cooperation with law enforcement shall also include applying for the issuance of a criminal complaint in circumstances in which police did not witness the incident and have no right of arrest, provided that in such circumstance, police records clearly demonstrate that the victim was advised of his right to apply for the issuance of a criminal complaint.

Current with amendments through April 30, 2011.

## **R.I. CODE §29-1-5:1.07 (2011). COMPENSABLE EXPENSES**

The following expenses are compensable in accordance with the following requirements:

[1] General Requirements:

(a) No compensation shall be awarded in excess of twenty-five thousand dollars (\$25,000) plus any attorney fees awarded pursuant to a successful request for reconsideration to the treasurer or treasurer's designee or pursuant to a successful appeal to the superior court. If two or more applicants are eligible for compensation arising out of a crime committed against one victim for the same crime, their applications shall be joined under one application for compensation and each applicant shall be entitled to receive compensation to the extent of out-of-pocket loss and in proportion to the out-of-pocket loss of every other applicant, but in no event shall the total compensation exceed the maximum allowable under the statute.

(b) In determining the amount of the award, the administrator, pursuant to the authority under R.I.G.L. section 12-25-18(b) to promulgate all rules and regulations to effectuate the provisions and overall purpose of the 1972 and 1996 acts and the 1999 amendments to the Criminal Injuries Compensation Act of 1996, shall take into consideration the rates and amounts payable for injuries and death under other statutes of this state and of the United States, and the amount of revenue in the violent crimes indemnity account and the number and nature of claims pending against it.

(c) Fund of Last Resort: The Criminal Injuries Compensation Act is a fund of last resort. An applicant must demonstrate that his/her compensable losses or legal liability exceed reimbursements or eligibility for reimbursement or compensation from any other collateral resource including, but not limited to, all resources and sources of payment or reimbursement listed in Section 1.10(2)(e) and R.I.G.L. section 12-25-23(b). Awards for compensation shall be reduced by all amounts reimbursed, reimbursable or otherwise compensable by any other source. No third party which has provided any compensation to an applicant shall have any claims against the office or the Program or to the funds awarded to the applicant pursuant to R.I.G.L. section 12-25-24.

(d) Elderly Victims: The administrator will make every effort to accelerate decisions on awards for compensation and payments on applications filed by victims over the age of sixty (60).

(e) Order of Payments: Applications shall be paid in the chronological order in which decisions are made.

(f) Reopening: An application for compensation may be reopened or the administrator may issue a supplemental award for additional medical expenses, including psychiatric care and mental health counseling expenses, and lost earnings, provided that the applicant provides proper documentation that the additional expenses have been actually and reasonably incurred as a direct result of the personal injury. The administrator shall issue a supplemental award as long as the total award does not exceed the maximum award allowable under this statute.

(g) The administrator may issue an award for expenses related to psychiatric care and mental health counseling for a parent, spouse, sibling or child of a victim who dies as a direct result of a violent crime, provided that the parent, spouse, sibling or child provides proper documentation that the psychiatric care and mental health counseling have been actually and reasonably incurred as a direct result of the death of the victim.

(h) Property losses are not compensable expenses.

(i) No interest shall be included in or added to an award for compensation.

(2) Medical Expenses: A victim shall be eligible for compensation for reasonable medical care obtained as a result of the crime.

(a) Compensation for medical expenses is limited to services, supplies and equipment that are medically necessary and reasonably incurred as a direct result of the crime. Compensation shall not be awarded for unrelated conditions or services, or for preexisting conditions except to the extent they were exacerbated by the crime. The cost of repair or replacement of eyeglasses damaged or destroyed as the direct result of a crime shall have a maximum award amount of \$200.00. Compensation shall not be awarded on the basis of an estimate of services to be rendered. However, where the medical provider requires pre-authorization for payments for medical treatment, the administrator may authorize payment for those medical services upon a showing by the medical provider that:

1. the medical services to be rendered are related to the crime for which an application for compensation was filed with the office; and
2. the medical services are reasonable and necessary to correct the injury to the victim; and
3. the fees and costs associated with the proposed medical services are reasonable and in conjunction with R.I.G.L. section 12-25-19 (h). In addition, compensation shall not be awarded for photocopying of medical records or for the writing of medical reports.

(b) The applicant must demonstrate an actual out-of-pocket loss or legal liability for payment of compensable medical expenses, including the cost of eyeglasses as stated in 1.07(2)(a), which are not reimbursed or reimbursable by any other source. In order to make this demonstration, the applicant must:

(1) if the victim is covered by a private insurance provider, submit all bills for payment to the insurance provide;

(2) exhaust all other sources of public reimbursement including, but not limited to, Medicaid, Medicare, workers' compensation, social security, veterans benefits, community free service, charity care, free care or uncompensated care;

(3) comply with all reasonable requests by the office to secure information and verifications necessary to investigate the application.

(c) Upon request by the office, medical providers, including those rendering services for the replacement of eyeglasses as stated in 1.07(2)(a), shall cooperate with the office in the investigation of applications for compensation and are required to:

(1) verify that the services rendered are medically necessary and reasonably incurred as a direct result of the crime. Where medical services or therapy extend beyond six months or 30 sessions (whichever is greater), the office may, as a condition of further payment, require current verification that the services are medically necessary and reasonably incurred as a direct result of the crime;

(2) provide current billing and balance information, including information about amounts covered by insurance, public benefits or other sources, and current information about any amounts paid and by whom;

(3) certify whether the services rendered are reimbursable by Medicaid or any other public or private insurance source, including, but not limited to, community free service, charity care, free care or uncompensated care;

(4) in the case of hospitals, assist the applicant in applying for community free service, charity care, free care or uncompensated care.

(d) All medical providers, , including those rendering services for the replacement of eyeglasses as stated in 1.07(2)(a), must be licensed by the Rhode Island Board of Medical Licensure and Discipline or an equivalent state licensing authority, or must be certified by the recognized national certification body for that profession.

(e) The administrator may authorize an award for outstanding medical expenses payable directly to the medical provider, but only if the provider has fully cooperated with the office in the investigation of the claim. Otherwise, awards shall be made payable solely to the applicant.

(f) Where compensable medical services have been rendered, any award made payable to the medical provider or jointly to the applicant and the medical provider shall be based on the current final adjustment to charge ratio approved by the Department of Labor and Training pursuant to R.I.G.L. section 28-33-1 et seq. and applied by the Rhode Island Workers' Compensation Unit in establishing payout ratios for inpatient charges, emergency room charges, and ambulatory surgery charges. Amounts for all other medical services shall be based on the current Rhode Island Workers' Compensation Medical Fee Schedule. If the provider employs a sliding scale fee structure for any category of patient service, the award shall not exceed the amount the applicant would be charged if he/she qualified under the provider's sliding scale fee structure.

(g) Any medical provider that receives payment from the Office of the General Treasurer for medical services, supplies or equipment pursuant to an award under R.I.G.L. section 12-25-16 et. seq. shall, as a condition of the receipt of such payment, accept such payment as discharging in full any and all obligations of the victim or applicant to pay, reimburse or compensate the provider for medical services, supplies of equipment, that have been reimbursed under this section. By accepting payment as referenced herein, said medical provider shall be prohibited from assessing any additional charges against the victim or applicant.

(h) In making determinations regarding applications for medical expenses, the administrator may obtain an advisory opinion of a review panel consisting of members of the medical community.

(3) Mental Health counseling: A victim shall be eligible for compensation for reasonable and necessary mental health counseling and psychiatric care expenses that have been actually and reasonably incurred as a direct result of the crime. A parent, spouse, sibling or child of a victim who dies as a direct result of a violent crime shall be eligible for compensation for reasonable and necessary mental health counseling and psychiatric care expenses that have been actually and reasonably incurred as a direct result of the death of the victim. Compensation shall not be awarded for treatment of unrelated conditions, or for preexisting conditions to the extent they were exacerbated by the crime. Compensation shall not be awarded on the basis of an estimate of services to be rendered. However, where the mental health provider requires pre-authorization for payments for mental health counseling or psychiatric care, the administrator may

authorize payment for such mental health counseling or psychiatric care upon a showing by the mental health provider that:

1. the mental health counseling or psychiatric care to be rendered is related to the crime for which an application for compensation was filed with the office; and
2. the mental health counseling or psychiatric care is reasonable and necessary to correct the injury to the victim; and
3. the fees and costs associated with the proposed mental health counseling or psychiatric care is reasonable and in conjunction with R.I.G.L. section 12-25-19 (h).

(a) The following maximum rates and limitations for the payment of mental health treatment sessions

1. \$130 per hour is reimbursed for individual services provided by a licensed psychiatrist
2. \$110 per hour is reimbursed for individual services provided by a licensed clinical psychologist.
3. \$90 per hour is reimbursed for individual services provided by a licensed clinical social worker, mental health nurse, marriage and family therapist (MFT), or clinical nurse specialist with a specialist in psychiatric mental health nursing.
4. For group therapy, 40% of the maximum individual session rate is reimbursed.
5. Family therapy is reimbursed as individual session rates listed above.

(a) Upon request of the administrator, the treating mental health provider must submit a mental health treatment plan on a form prescribed by the office. If mental health treatment extends beyond six months or 30 sessions (whichever is greater), the administrator may require, as a condition of further payment, the submission of a current, updated mental health treatment plan by the mental health provider.

(b) All mental health providers must be registered or certified with, or licensed by, or under the direct supervision of a person who is registered or certified with, or licensed by either the Rhode Island Board of Medical Licensure and Discipline, the Rhode Island Board of Registration of Social Workers, the Rhode Island Board of Psychology, or the Rhode Island Department of Health as a Mental Health Counselor or a Therapist in Marriage or Family Practice, or by an equivalent state licensing authority.

(c) In making determinations regarding applications for mental health counseling or psychiatric care, the administrator may obtain an advisory opinion of a peer review panel consisting of volunteer members of the mental health provider community.

(d) The office shall compensate mental health counseling or psychiatric care expenses in accordance with the following maximum rates and limitations as follows:

- (1): \$130 per hour is reimbursed for individual services provided by a licensed psychiatrist;
- (2): \$110 per hour is reimbursed for individual services provided by a licensed clinical psychologist;
- (3): \$90 per hour is reimbursed for individual services provided by licensed clinical social worker, mental health nurse, marriage and family therapist (MFT), or clinical nurse specialist with a specialist in psychiatric mental health nursing;
- (4): For group therapy, 40% of the maximum individual session rate is reimbursed;
- (5): Family therapy is reimbursed as individual session rates listed above.

(e) Compensation for mental health counseling may be denied for expenses incurred in the following instances:

- (1) Missed or canceled appointments;
- (2) non-therapeutic testimonial court appearances by a mental health provider;
- (3) non-therapeutic investigatory consultations;
- (4) photocopying and report writing; or
- (5) tele-therapy or dial-for-therapy services unconnected to any face-to-face consultation of diagnosis.

(f) The administrator may authorize payment directly to a mental health provider, but only if the provider has fully cooperated with the office in the investigation of the claim. Any mental health provider that receives payment from the Office of the General Treasurer pursuant to an award under R.I.G.L. sections 12-25-16 et. seq. shall, as a condition of the receipt of such payment, accept such payment as discharging in full any and all obligations of the victim or applicant to pay, reimburse or compensate the provider for services

that have been reimbursed under this section. By accepting payment as referenced herein, said mental health provider shall be prohibited from assessing any additional charges against the victim or applicant.

(4) Loss of Earnings: If, at the time of the crime, the victim was employed, he may be eligible for compensation for loss of earnings.

(a) In order to be eligible for loss of earnings, the victim must demonstrate that, as a direct result of injuries caused by the crime, he/she is medically disabled from working and, further, the exact number of weeks for which he/she will be disabled from working. Upon request by the office, the victim must submit a disability letter from a treating physician or mental health provider demonstrating that the victim is disabled from working as a direct result of the crime and specifying an exact date when the victim is able to resume working. The disability letter must be on the letterhead of the treating physician or mental health provider, or on a disability form prescribed by the Crime Victim Compensation Program, and signed by the treating physician or mental health provider.

(b) An award for loss of earnings shall be based on the victim's actual earnings at the time of the crime. If the victim was performing salaried employment at the time of the crime, the award shall be based on the victim's salary at the time of the crime. If the victim was performing seasonal, nonsalaried or intermittent work at the time of the crime, or if the victim had received a bona fide offer of employment at the time of the crime, the office may look to the victim's earnings history and the value of the victim's contractual work obligations in order to determine the victim's loss of earnings. Any award for loss of earnings based on seasonal, nonsalaried, or intermittent work, or on a bona fide offer of employment shall be based on an average net anticipated salary for the period of employment. If the victim was self-employed, the office may look to the victim's earnings history based on the victim's financial statements or tax returns for the three (3) years prior to the time of the crime. Any award for loss of earnings for self-employed victims shall be based on an average net salary for the aforementioned period of self-employment.

(c) If, at the time of the crime, the victim was not employed, the administrator shall not make an award for loss of earnings.

(d) Upon request by the office, the applicant must provide:

(1) verification from his/her employer (or, if self-employed, from his/her own income tax records) that he/she was employed at the time of the crime; and of the dates he/she was absent from work, his/her net weekly earnings at the time of the crime, and any sick vacation benefits used in his/her absence;

(2) proof of employment and earnings history for one year preceding the crime.

(e) An award for loss of earnings shall be based on the loss of reported income. Unreported income may not form the basis of an award for loss of earnings.

(f) An award for loss of earnings shall be based on net (after tax) earnings. Any compensation awarded shall be reduced by any money received or receivable from any other public or private source including, but not limited to, workers' compensation benefits, social security benefits, disability benefits, and sick and vacation benefits.

(g) Failure to provide proof of earnings, or failure to provide proof of medical disability, may result in denial of a claim for loss of earnings.

(5) Eligibility for Compensation for Loss of Support: Dependents of homicide victims shall be eligible for loss of the victim's financial support in accordance with the following requirements:

(a) In order to be eligible for loss of financial support, an eligible applicant must demonstrate that, at the time of the crime, he/she was wholly or partially dependent upon the financial support of the victim at the time of his or her death.

(1) An eligible applicant shall be presumed wholly financially dependent on the victim if he/she demonstrates that:

(a) he/she is a minor child of the victim who was living with the victim at the time of the crime and receiving financial support from the victim; For purposes of a minor child, the value of the care provided by a stay-at-home parent with whom the child resided, shall constitute financial support: or

(b) at the time of the crime, the eligible applicant was living with the victim and the victim's income constituted his/her primary source of financial support.

(2) An eligible applicant may establish that he/she was partially dependent on the victim if he/she demonstrates that:

(a) he/she is a minor child of the victim who, at the time of the crime, was not living with the victim but was receiving financial support directly from the victim; or

(b) at the time of the crime, the eligible applicant was living with the victim and dependent on financial support received directly from the victim as shown by the joint loan agreements, joint bank accounts or other documents evidencing financial dependence.

(6) Calculation of Award for Loss of Support: Once the dependency of the eligible applicant has been established, an award for loss of support shall be calculated based on the number of weeks for which the applicant would have remained financially dependent on the victim.

(a) If the applicant was wholly dependent on the victim for financial support an award for loss of support shall be based on the rate of \$250.00 per week

(b) If the applicant was partially dependent on the victim for financial support, an award for loss of support shall be based on the rate of \$125.00 per week.

(c) The applicant must demonstrate the number of weeks for which he/she would have remained financially dependent on the victim. In making this determination, the following limitations shall apply:

(1) if the applicant is a minor, the period of dependency shall continue until the applicant reaches the age of 18 years old, or in the case of a full time student, the period of dependency shall continue until the applicant reaches the age of 23 years old.

(2) the period of dependency shall not exceed the life expectancy of either the victim or the applicant, whichever is sooner.

(d) If two or more applicants seek compensation for loss of financial support from the same victim, the award shall be apportioned based on each applicant's loss of financial support from the victim, notwithstanding, in the case of two or more minor children seeking compensation for loss of support from the victim-parent, then the award shall be divided equally between the minor children.

(a) As a condition of making an award to a minor dependent of a crime victim, the administrator may require that such funds be placed in a trust account for the benefit of the minor dependent. The administrator may also require that the applicant or individual entrusted with the care and custody of the minor dependent execute and deliver to the office a trust agreement certifying that said individual will hold the funds separate and apart from his/her own monies, that said individual will, throughout the period of the minor dependent's minority, hold and safeguard said funds for the benefit of the minor dependent, expend said funds for the health and welfare of the minor dependent, and that upon the minor dependent's attainment of majority, transfer title to all remaining funds and investments made on his/her behalf to said minor dependent. If, at the time of the award, a permanent guardian has not been appointed for the minor dependent, the office may defer issuance of all or part of the award until such time as a permanent guardian or trustee has been appointed, or until the dependent reaches the age of 18, whichever is sooner.

(7) Funeral and Burial Expenses: An award for funeral and burial expenses shall be based on reasonable and necessary expenses actually incurred by the applicant as a result of the death of the victim, less burial and life insurance benefits and less contributions and donations received from friends, other relatives or other sources.

(a) Taking into consideration the amount of revenue in the violent crimes indemnity account and the number and nature of claims pending against it, the maximum award for funeral and burial expenses shall be limited to five thousand dollars (\$5,000.00).

(b) Funeral and burial expenses shall be limited to those expenses incurred at the funeral home, including reasonable and necessary cemetery charges, and including reasonable and necessary expenses for a

headstone for the victim and such other reasonable and necessary charges as determined by the administrator.

(c) If the applicant is eligible for payment of funeral and burial expenses through the Department of Human Services pursuant to R.I.G.L. section 40-6-3.10, this benefit must be deducted from the funeral and burial expenses actually incurred by the applicant.

(d) The office may award emergency compensation under the 1999 amendments to the Criminal Injuries Compensation Act of 1996 for the burial expenses of a victim who dies as a direct result of a violent crime. An award for emergency compensation shall be awarded at the sole discretion of the administrator. An award for emergency compensation shall not exceed the sum of five thousand dollars (\$5,000.00). Any award for emergency compensation shall be deducted from the final award. In the event the victim is later found to be ineligible for compensation under the provisions of R.I.G.L. 12-25-16 et. seq., then the victim's estate or the applicant, or both, shall repay the amount of the emergency award to the fund.

(e) The office shall work with law enforcement authorities to obtain relevant facts and circumstances surrounding the events that led to the death of the victim before making an emergency burial award, including, but not limited to, reviewing police reports and records and the criminal record, if any, of the victim. If the administrator determines that the victim is not eligible, then no emergency burial award will be made.

(f) The office will act as expeditiously and thoroughly as possible to ensure that prompt payment of an emergency burial award is made.

(8) Pain and Suffering: This subsection 8 of Section 1.07 shall not apply to any claims for compensation filed pursuant to the 1999 amendments to the Criminal Injuries Compensation Act of 1996. Accordingly, any claims involving crimes resulting in personal injury or death which occurred on or after September 1, 1999 would not be eligible for an award for pain and suffering. Further, any claims arising under or made pursuant to the 1972 or 1996 acts which are voluntarily transferred by the applicant into the program established pursuant to the 1999 amendments to the Criminal Injuries Compensation Act of 1996 would not be eligible for an award for pain and suffering. The applicant and/or the victim, by transferring said claim, would waive all rights to a claim of pain and suffering. As to claims filed pursuant to the 1972 Act or the 1996 Act, only a victim, the legal guardian of a victim, or the child advocate filing an application for compensation on behalf of a minor victim are eligible for an award for pain and suffering. Relatives, dependents, and legal representatives of the victim's estate are not eligible for an award for pain and suffering.

(a) In determining the amount of the pain and suffering award, the administrator shall take into consideration the rates and amounts payable for injuries and death under other statutes of this state and of the United States, and the amount of revenue in the violent crimes indemnity account and the number and nature of claims pending against it. The amount of the award for pain and suffering shall be based on the amount deemed necessary and appropriate, taking into account the particular circumstances involved in the crime and the financial resources available in the violent crimes indemnity fund.

(b) An award for pain and suffering shall be based on a rate of \$250.00 per week for each week of total disability and a rate of \$125.00 per week for each week of partial disability. For the purpose of determining an award for pain and suffering, the number of weeks the victim is totally or partially disabled shall mean that period of time during which the victim was either:

(1) hospitalized as an inpatient at an acute care hospital, non-acute rehabilitation hospital, nursing home facility, or psychiatric hospital; or

(2) treated on an ongoing basis by a physician or mental health provider for injuries incurred as a direct result of the crime; or

(3) unable to resume employment due to the injuries incurred as a direct result of the crime.

(c) The victim must submit a disability letter from a treating physician or mental health provider specifically describing the victim's disability, the exact number of weeks the victim received treatment from the



physician or mental health provider, and the exact number of weeks the victim was totally disabled and/or partially disabled.

(9) Attorney Fees: For any cases currently pending under the 1972 Act, upon a judgment in favor of the plaintiff, the amount of compensation awarded to a plaintiff's attorney shall not exceed fifteen percent (15%) of the total amount awarded to the plaintiff, or two thousand dollars (\$2000.00), whichever is less, provided, however, that in unusual circumstances, the court may award a larger attorney's fee if it finds that a departure from the limits set forth herein is warranted, stating specific reasons upon which the finding and award is based. For case filed pursuant to the 1996 Act or the 1999 amendments to the Criminal Injuries Compensation Act of 1996, A attorney fees shall only be awarded upon a successful request for reconsideration of the administrator's decision to the treasurer or the treasurer's designee or upon a successful appeal of the treasurer or the treasurer's designee's decision to the superior court. Any attorney who charges, demands, receives or collects for services rendered in connection with any proceeding under the 1996 Act or the 1999 amendments to the Criminal Injuries Compensation Act of 1996, any amount in excess of that allowed under this section, if any compensation is paid, shall be subject to disciplinary action and other appropriate action to be taken by the Supreme Court of the state of Rhode Island.

(a) In order to be eligible for an attorney fee award, the following conditions must apply:

(1) the attorney must fully cooperate with the office in the investigation of the application, including fully and promptly responding to all requests for information and verification; and

(2) the attorney must submit an affidavit which sets forth the hours worked, the services rendered, and the amount of fee proposed to be charged for representing the application during the proceedings.

(b) In determining the amount of an attorney fee award, the treasurer or the treasurer's designee shall make a determination, based on the attorney affidavit and a review of the file, of a reasonable amount of time in preparation, in settlement negotiations, and in hearing attendance, the total amount awarded to the applicant for injuries incurred, and the amount of revenue in the violent fines indemnity account, together with the number and nature of the claims pending against it.

(c) In no event shall an attorney fee award exceed 15% of the total award for compensation, or fifteen hundred dollars (\$1,500.00), whichever is less, provided, however, that in unusual circumstances, the treasurer or court may award a larger attorney's fee if it finds that a departure from the limits set forth in this subsection is warranted, stating specific reasons upon which the finding and award is based.

(d) Attorney fees shall not be awarded in those cases brought by the office of the child advocate.

(10) Loss of earnings for parent/guardian of minor or incompetent crime victim

In order for the parent/guardian of a minor or incompetent crime victim to be eligible for loss of earnings, the parent/guardian must demonstrate that he/she was absent from work as a direct result of circumstances attributed to the crime due to required medical treatment for the victim, required mental health treatment for the victim, required court appearances for the victim or required meetings for the victim with law enforcement in the preparation and prosecution of the criminal case. Proof will be required of the following:

(1) documentation of the reason(s) the parent/guardian was absent from work due to caregiver responsibilities which are a direct result of the crime, as set forth above; documentation of each absence shall be required as to the date, time, place and purpose which resulted in the parent/guardian's absence from work.

(2) documentation by the employer of the parent/guardian as to the absence from work.

(3) calculation of loss of earnings shall be as follows:

a. An award for loss of earnings shall be based on the parent/guardian's actual earnings.

b. If the parent/guardian was performing salaried employment the award shall be based on the parent/guardian's salary at the time of the absence from work..

c. If the parent/guardian was performing seasonal, nonsalaried or intermittent work at the time of the crime, the office may look to the parent/guardian's earnings history and the value of the parent/guardian's

contractual work obligations in order to determine the parent/guardian's loss of earnings. Any award for loss of earnings based on seasonal, nonsalaried, or intermittent work shall be based on any average net anticipated earnings for the period of employment. If the parent/guardian was self-employed, the office may look to the parent/guardian's earnings history based on the parent/guardian's financial statements or tax returns for the three (3) years prior to the absence from work. Any award for loss of earnings for self-employed parent/guardian shall be based on an average net salary for the aforementioned period of self-employment.

d. Upon request by the office, the parent/guardian must provide verification from his/her employer (or if self-employed, from his/her own income tax records) that he/she was gainfully employed at the time of the required absence; and of the dates he/she was required to be absent from work, his/her net weekly earnings at the time of the required absence from work, and any sick, vacation or personal time benefits available during his/her absence. An award for loss of earnings shall be based on the loss of reported income. Unreported income may not form the basis of an award for loss of earnings. An award for loss of earnings shall be based on net (after tax) earnings. Any compensation awarded shall be reduced by any money received or receivable from any other public or private source including, but not limited to, workers' compensation benefits, social security benefits, disability benefits, and sick, vacation or personal time benefits.

Current with amendments through April 30, 2011.

## **R.I. CODE § 12-25-22. LIMITATIONS UPON AWARDING COMPENSATION**

(a) Actions for compensation under this chapter shall be commenced within three (3) years after the date of the personal injury or death, and no compensation shall be awarded for an injury or death resulting from a crime which was not reported to the appropriate law enforcement authority within ten (10) days of its occurrence; provided, that the office shall have the authority to allow a claim which was not reported pursuant to this section when the victim was below the age of eighteen (18) years of age or of unsound mind, or for good cause shown.

(b) No compensation shall be awarded under this chapter to the victim, or in the case of death to dependent relatives or to the legal representative, in a total amount in excess of twenty-five thousand dollars (\$25,000) plus any attorney fees awarded upon appeal to the treasurer or to the superior court pursuant to § 12-25-25.

(c) No compensation shall be awarded when the office, in its discretion, determines that unjust enrichment to or on behalf of the offender would result. Compensation under this chapter shall not be awarded to any victim or dependent relative or legal representative if the award would directly or indirectly inure to the benefit of the offender.

(d) No interest shall be included in or added to an award of compensation under this chapter.

(e) When the plaintiff is the victim's estate, it shall only be awarded compensation for the victim's actual medical, hospital, funeral, and burial expenses for which the victim or his or her estate is not compensated by any other source and for the loss of support to the dependents of the victim.

## South Carolina

### **S.C. CODE ANN. § 16-3-1350 (2011). MEDICOLEGAL EXAMINATIONS FOR VICTIMS OF CRIMINAL SEXUAL CONDUCT OR CHILD SEX ABUSE.**

(A) The State must ensure that a victim of criminal sexual conduct in any degree, criminal sexual conduct with a minor in any degree, or child sexual abuse must not bear the cost of his or her routine medicolegal exam following the assault.

(B) These exams must be standardized relevant to medical treatment and to gathering evidence from the body of the victim and must be based on and meet minimum standards for rape exam protocol as developed by the South Carolina Law Enforcement Division, the South Carolina Hospital Association, and the Governor's Office Division of Victim Assistance with production costs to be paid from funds appropriated for the Victim's Compensation Fund. These exams must include treatment for sexually transmitted diseases, and must include medication for pregnancy prevention if indicated and if desired. The South Carolina Law Enforcement Division must distribute these exam kits to any licensed health care facility providing sexual assault exams. When dealing with a victim of criminal sexual assault, the law enforcement agency immediately must transport the victim to the nearest licensed health care facility which performs sexual assault exams. A health care facility providing sexual assault exams must use the standardized protocol described in this subsection.

(C) A licensed health care facility, upon completion of a routine sexual assault exam as described in subsection (B) performed on a victim of criminal sexual conduct in any degree, criminal sexual conduct with a minor in any degree, or child sexual abuse, may file a claim for reimbursement directly to the South Carolina Crime Victim's Compensation Fund if the offense occurred in South Carolina. The South Carolina Crime Victim's Compensation Fund must develop procedures for health care facilities to follow when filing a claim with respect to the privacy of the victim. Health care facility personnel must obtain information necessary for the claim at the time of the exam, if possible. The South Carolina Crime Victim's Compensation Fund must reimburse eligible health care facilities directly.

(D) The Governor's Office Division of Victim Assistance must utilize existing funds appropriated from the general fund for the purpose of compensating licensed health care facilities for the cost of routine medical exams for sexual assault victims as described above. When the director determines that projected reimbursements in a fiscal year provided in this section exceed funds appropriated for payment of these reimbursements, he must direct the payment of the additional services from the Victim's Compensation Fund. For the purpose of this particular exam, the one hundred dollar deductible is waived for award eligibility under the fund. The South Carolina Victim's Compensation Fund must develop appropriate guidelines and procedures and distribute them to law enforcement agencies and appropriate health care facilities.

## South Dakota

### **S.D. CODIFIED LAWS § 22-22-26 (2012). PAYMENT FOR RAPE OR SEXUAL OFFENSE EXAMINATIONS-REIMBURSEMENT BY CONVICTED DEFENDANT**

If a physician, hospital, or clinic examines the victim of an alleged rape or sexual offense to gather information or evidence about the alleged crime, the examination shall be provided without cost to the

victim. The physician, hospital, or clinic shall be paid for the cost of the examination by the county where the alleged rape or sexual offense occurred, which shall be reimbursed by any defendant if convicted.

**S.D. CODIFIED LAWS § 23A-35B-4 (2012). TESTING PROCEDURE--NOTIFICATION OF VICTIM AS TO RESULTS--PAYMENT FOR TESTING**

A health professional licensed or certified to do so shall take the blood samples required for testing for blood-borne pathogen infection and forward them to the Department of Health for testing. The testing shall take place under a test protocol determined by the Department of Health. A licensed physician designated by the victim or the law enforcement officer to receive the results of the test shall notify the victim or the law enforcement officer of the results of the victim's or law enforcement officer's test and shall notify the victim or the law enforcement officer and the defendant or the juvenile of the results of the defendant's or the juvenile's test within forty-eight hours after receipt. The county in which the alleged crime of violence, assault, sexual assault, or equivalent juvenile offense occurred shall pay for the services of the licensed or certified health professionals involved in the counseling and the testing, and a defendant, if convicted, shall reimburse the county for the costs of the testing. If the defendant is an inmate under the jurisdiction of the Department of Corrections, the costs of the testing shall be taken from the inmate's account pursuant to § 24-2-29.

**S.D. ADMIN. R. 67:55:04:13 (2012). MEDICAL EXPENSES RESULTING FROM SEXUAL ASSAULT.**

Bills for rape exams and related expenses must be submitted to collateral sources, including health insurance, before payment may be made under the provisions of this article.

Reimbursement is not allowed for rape or sexual offense examinations provided under the provisions of SDCL 22-22-6.

Current through September 30, 2011

## Tennessee

**TENN. CODE ANN. § 29-13-118 (2011). FORENSIC MEDICAL EXAMINATIONS; SEXUALLY-ORIENTED CRIMES; CLAIMS FOR COMPENSATION**

(a) For purposes of this section, unless the context otherwise requires, "forensic medical examination" means an examination provided to a victim of a sexually-oriented crime by any health care provider who gathers evidence of a sexual assault in a manner suitable for use in a court of law.

(b)(1) A victim of a sexually-oriented crime, defined as a violation of §§ 39-13-502--39-13-506, 39-13-522, 39-13-527, 39-13-531, and 39-13-532, shall be entitled to forensic medical examinations without charge to the victim. No bill for the examination shall be submitted to the victim, nor shall the medical facility hold the victim responsible for payment. All claims for forensic medical examinations are eligible for payment from the criminal injuries compensation fund, created under § 40-24-107.

(2) Notwithstanding any provision of this part to the contrary, the victims shall not be required to report the incident to law enforcement officers or to cooperate in the prosecution of the crime in order to be eligible for payment of forensic medical examinations.

(c) A claim for compensation under this section shall be filed no later than one (1) year after the date of the examination by the health care provider that performed the examination, including a hospital, physician, SANE program, Child Advocacy Center, or other medical facility. The claim shall be filed with the division, in person or by mail. The division is authorized to prescribe and distribute forms for the filing of claims for compensation. The claim shall set forth the name and address of the victim, and any other information required by the division in order to satisfy federal regulations issued under the Victims of Crime Act of 1984. The claim shall be accompanied by an itemized copy of the bill from the health care provider that conducted the examination. The bill shall, at a minimum, set forth the name of the victim, the date the examination was performed, the amount of the bill, the amount of any payments made on the bill, and the name and address of the health care provider that performed the examination.

(d) The amount of compensation that may be awarded under this section shall not exceed seven hundred fifty dollars (\$750), and shall constitute full compensation to the health care provider that provided the service. No provider receiving compensation pursuant to this section shall bill the victim for any additional cost related to the forensic medical examination. The compensation shall be made pursuant to this subsection (d) no later than ninety (90) days after receiving the documentation required under subsection (c).

(e) Payment to a health care provider under this section does not prohibit the victim from receiving other payments for which the victim may be eligible under this part or any other law.

## Texas

### **TEX. CODE OF CRIM. PROC. ANN. ART. §56.065 (2011). MEDICAL EXAMINATION FOR SEXUAL ASSAULT VICTIM WHO HAS NOT REPORTED ASSAULT; COSTS**

(a) In this article:

- (1) "Crime laboratory" has the meaning assigned by Article 38.35.
- (2) "Department" means the Department of Public Safety.
- (3) "Sexual assault examiner" and "sexual assault nurse examiner" have the meanings assigned by Section 420.003, Government Code.

(b) This article applies to the following health care facilities that provide diagnosis or treatment services to victims of sexual assault:

- (1) a general or special hospital licensed under Chapter 241, Health and Safety Code;
- (2) a general or special hospital owned by this state;
- (3) an outpatient clinic; and
- (4) a private physician's office.

(c) In accordance with Subchapter B, Chapter 420, Government Code, and except as provided by Subsection (e), a health care facility shall conduct a forensic medical examination of the victim of an alleged sexual assault if:

- (1) the victim arrives at the facility within 96 hours after the assault occurred;
- (2) the victim consents to the examination; and
- (3) at the time of the examination the victim has not reported the assault to a law enforcement agency.

(d) The department shall pay the appropriate fees, as set by attorney general rule, for the forensic portion of the medical examination and for the evidence collection kit if a physician, sexual assault examiner, or sexual assault nurse examiner conducts the forensic portion of the examination within 96 hours after the alleged sexual assault occurred. The attorney general shall reimburse the department for fees paid under this subsection.

(e) If a health care facility does not provide diagnosis or treatment services to victims of sexual assault, the facility shall refer a victim seeking a forensic medical examination under Subsection (c) to a health care facility that provides services to those victims.

(f) The department, consistent with Chapter 420, Government Code, may develop procedures regarding the submission or collection of additional evidence of the alleged sexual assault other than through an examination as described by this article.

(g) The department, consistent with Chapter 420, Government Code, shall develop procedures for the transfer and preservation of evidence collected under this article to a crime laboratory or other suitable location designated by the public safety director of the department. The receiving entity shall preserve the evidence until the earlier of:

(1) the second anniversary of the date the evidence was collected; or

(2) the date on which written consent to release the evidence is obtained as provided by Section 420.0735, Government Code.

(h) The victim may not be required to:

(1) participate in the investigation or prosecution of an offense as a condition of receiving a forensic medical examination under this article; or

(2) pay for the forensic portion of the medical examination or for the evidence collection kit.

(i) The attorney general and the department each shall adopt rules as necessary to implement this article.

(j) A communication or record that contains identifying information regarding a person who receives a forensic medical examination under this article and that is created by, provided to, or in the control or possession of the department is confidential for purposes of Section 552.101, Government Code. In this subsection, "identifying information" includes:

(1) information revealing the identity, personal history, or background of the person; or

(2) information concerning the victimization of the person.

### **TEX. CODE OF CRIM. PROC. ANN. ART. §56.06 (2011). MEDICAL EXAMINATION FOR SEXUAL ASSAULT VICTIM WHO HAS REPORTED ASSAULT; COSTS.**

(a) If a sexual assault is reported to a law enforcement agency within 96 hours of the assault, the law enforcement agency, with the consent of the victim, a person authorized to act on behalf of the victim, or an employee of the Department of Family and Protective Services, shall request a medical examination of the victim of the alleged assault for use in the investigation or prosecution of the offense. A law enforcement agency may decline to request a medical examination under this subsection only if the person reporting the sexual assault has made one or more false reports of sexual assault to any law enforcement agency and if there is no other evidence to corroborate the current allegations of sexual assault.

(b) If a sexual assault is not reported within the period described by Subsection (a), on receiving the consent described by that subsection the law enforcement agency may request a medical examination of a victim of an alleged sexual assault as considered appropriate by the agency.

(c) A law enforcement agency that requests a medical examination of a victim of an alleged sexual assault for use in the investigation or prosecution of the offense shall pay all costs of the examination. On application to the attorney general, the law enforcement agency is entitled to be reimbursed for the reasonable costs of that examination if the examination was performed by a physician or by a sexual assault examiner or sexual assault nurse examiner, as defined by Section 420.003, Government Code.

(d) A law enforcement agency or prosecuting attorney's office may pay all costs related to the testimony of a licensed health care professional in a criminal proceeding regarding the results of the medical examination or manner in which it was performed.

(e) This article does not require a law enforcement agency to pay any costs of treatment for injuries.

Current through the end of the 2011 Regular Session and First Called Session of the 82nd Legislature

### **TEX. HEALTH & SAFETY CODE ANN. § 323.005 (2011). INFORMATION FORM**

(a) The department shall develop a standard information form for sexual assault survivors that must include:

- (1) a detailed explanation of the forensic medical examination required to be provided by law, including a statement that photographs may be taken of the genitalia;
- (2) information regarding treatment of sexually transmitted infections and pregnancy, including:
  - (A) generally accepted medical procedures;
  - (B) appropriate medications; and
  - (C) any contraindications of the medications prescribed for treating sexually transmitted infections and preventing pregnancy;
- (3) information regarding drug-facilitated sexual assault, including the necessity for an immediate urine test for sexual assault survivors who may have been involuntarily drugged;
- (4) information regarding crime victims compensation, including:
  - (A) a statement that:
    - (i) a law enforcement agency will pay for the forensic portion of an examination requested by the agency under Article 56.06, Code of Criminal Procedure, and for the evidence collection kit; or
    - (ii) the Department of Public Safety will pay the appropriate fees for the forensic portion of an examination conducted under Article 56.065, Code of Criminal Procedure, and for the evidence collection kit; and
  - (B) reimbursement information for the medical portion of the examination;
- (5) an explanation that consent for the forensic medical examination may be withdrawn at any time during the examination;
- (6) the name and telephone number of sexual assault crisis centers statewide; and
- (7) information regarding postexposure prophylaxis for HIV infection.

(b) A health care facility shall use the standard form developed under this section.

(c) An individual employed by or under contract with a health care facility may refuse to provide the information form required by this section for ethical or religious reasons. If an individual employed by or under contract with a health care facility refuses to provide the survivor with the information form, the

health care facility must ensure that the information form is provided without delay to the survivor by another individual employed by or under contract with the facility.

### **TEX. GOV'T CODE ANN. § 420.031 (2011). EVIDENCE COLLECTION PROTOCOL; KITS**

(a) The service shall develop and distribute to law enforcement agencies and proper medical personnel an evidence collection protocol that shall include collection procedures and a list of requirements for the contents of an evidence collection kit for use in the collection and preservation of evidence of a sexual assault or other sex offense. Medical or law enforcement personnel collecting evidence of a sexual assault or other sex offense shall use a service-approved evidence collection kit and protocol.

(b) An evidence collection kit must contain the following items:

- (1) items to collect and preserve evidence of a sexual assault or other sex offense; and
- (2) other items recommended by the Evidence Collection Protocol Advisory Committee of the attorney general and determined necessary for the kit by the attorney general.

(c) In developing evidence collection procedures and requirements, the service shall consult with individuals and organizations having knowledge and experience in the issues of sexual assault and other sex offenses.

(d) A law enforcement agency that requests a medical examination of a victim of an alleged sexual assault or other sex offense for use in the investigation or prosecution of the offense shall pay the costs of the evidence collection kit. This subsection does not require a law enforcement agency to pay any costs of treatment for injuries.

(e) Evidence collected under this section may not be released unless a signed, written consent to release the evidence is obtained as provided by Section 420.0735.

(f) Failure to comply with evidence collection procedures or requirements adopted under this section does not affect the admissibility of the evidence in a trial of the offense.

### **1 TEX. ADMIN. CODE §61.801 (2011). APPLICABILITY, GENERAL PROVISIONS, AND EXCLUSIONS**

(a) A law enforcement agency is entitled to reimbursement from the OAG for the reasonable costs associated with a forensic sexual assault examination of a victim consistent with the provisions and criteria of state law and of these administrative rules.

(b) The costs for multiple examinations of the same victim will not be reimbursed. The cost of only one forensic sexual assault examination per victim per alleged sexual assault will be considered a reimbursable cost.

(c) OAG has determined that expenses that comply with the Texas Workers' Compensation Commission medical fee guidelines, identified as Current Procedural Terminology (CPT) Codes, are considered "reasonable expenses." If there is no specific CPT Code under the medical fee guidelines for the medical service or procedure provided in the sexual assault examination, the OAG may accept from a physician a Revenue Code, or the CPT Code that most closely reflects that used in the sexual assault forensic examination. Each cost identified in a descriptive, itemized statement submitted by a sexual assault nurse examiner or sexual assault examiner will be assigned a CPT Code by the OAG.



(d) In addition to the costs shown in the Texas Workers' Compensation Commission medical fee guidelines, the OAG has determined that the costs listed in § 61.804 of this title are also reasonable costs. In the event the costs in the Texas Workers' Compensation Commission medical fee guidelines are lower than the costs listed in § 61.804 of this title, the OAG will reimburse law enforcement agencies the greater amount; however, the total amount reimbursed shall not exceed \$700.00 in the aggregate.

(e) The OAG will reimburse a law enforcement agency for the reasonable costs associated with a forensic sexual assault examination of a victim in an amount not to exceed \$700.00 in the aggregate. The OAG has determined the reasonable costs for the services of the professional, the use of a facility, procedures, and materials. The list of allowable reimbursable costs is provided in § 61.804 of this title.

(f) In the event there are multiple fees from separate service providers, the OAG will reimburse the law enforcement agency up to a maximum aggregate amount of \$700.00 to be allocated among the service providers.

(g) A law enforcement agency is not required to pay any costs of treatment or diagnosis for the victim's injuries and the OAG will not reimburse the law enforcement agency for any costs associated with treatment or diagnosis.

(h) The OAG is not bound by any billing or contractual agreements made between a law enforcement agency and a service provider.

(i) All bills are subject to an individual audit and the OAG may request additional documentation at any time.

(j) The maximum aggregate amount for which the OAG will reimburse a law enforcement agency for all costs associated with a forensic sexual assault examination of a victim will be \$700.00. The OAG will not reimburse for any type of sexual assault examination of a suspected perpetrator. The OAG will not reimburse for the laboratory analysis of victim's clothing or crime scene materials or objects, including weapons.

Current through November 30, 2011

## **1 TEX. ADMIN. CODE § 61.803 (2011). REIMBURSEMENT PROCEDURES**

(a) The law enforcement agency seeking reimbursement for the reasonable costs of a forensic sexual assault examination must comply with the provisions of this section.

(b) The forensic sexual assault examination must have been performed at the request of a law enforcement agency for use in the investigation and prosecution of an alleged sexual assault.

(c) A physician, a sexual assault examiner, or a sexual assault nurse examiner must have performed the forensic sexual assault examination. A sexual assault examiner or a sexual assault nurse examiner performing a forensic sexual assault examination must have oversight by a medical director.

(d) Payments will be only for reimbursement; therefore, the law enforcement agency must have received and paid all bills associated with the forensic sexual assault examination before applying to the OAG for reimbursement. The law enforcement agency should attach all necessary supporting documentation to the OAG approved Application for Reimbursement.

(e) The law enforcement agency must complete all sections of the Application for Reimbursement. Incomplete applications will not be processed and will be returned to the law enforcement agency noting the reason the application is incomplete. The verification section of the Application for Reimbursement must be signed by an appropriate representative of the law enforcement agency who has knowledge of the facts stated in the application.

(f) All bills associated with the requested forensic sexual assault examination must be attached to the application, and only those expenses for the actual forensic sexual assault examination will be considered for reimbursement. All bills must be submitted at one time. No other bills submitted to the OAG will be processed after the Application for Reimbursement is received. At the written request of a law enforcement agency, items that have been denied on an application submitted between June 17, 2001, and July 30, 2002, may be re-submitted for review by the OAG if such denied items would be reimbursable under these rules.

Current through November 30, 2011

### **1 TEX. ADMIN. CODE § 61.804 (2011). REASONABLE COSTS**

(a) In order to be considered for reimbursement, the law enforcement agency must provide copies of bills that comply with the guidelines in this section.

(b) In order to be considered allowable reimbursable costs for services of a physician, sexual assault examiner, or sexual assault nurse examiner, the following provisions apply:

(1) A physician should bill the law enforcement agency his or her usual and customary charge for the forensic sexual assault examination on a Health Care Financing Administration form (HCFA-1500) or on his or her standard billing form. To be considered for reimbursement, the bill for service must include the associated CPT Code (99201-99137 or 99499) and an itemization of the service provided. The OAG will reimburse a law enforcement agency up to a maximum amount of \$195.00 for the service of a physician.

(2) A sexual assault examiner or a sexual assault nurse examiner should not use CPT or Revenue Codes, but should bill the law enforcement agency his or her usual and customary charge for the forensic sexual assault examination on his or her standard billing form. To be considered for reimbursement, the bill for service must include a descriptive itemized statement of the service provided. The OAG will determine the appropriate CPT or Revenue Codes. The OAG will reimburse a law enforcement agency up to a maximum amount of \$195.00 for the service of a sexual assault examiner or a sexual assault nurse examiner.

(3) In some examinations, a physician, sexual assault examiner, or a sexual assault nurse examiner may have additional evaluation and management requirements. To be considered for reimbursement in these cases, a full documentation of procedure with the associated CPT Code, 99499, may be allowed. The documentation of procedure must fully identify why additional evaluation and management service was required to complete the examination and what the services were. The OAG will reimburse a law enforcement agency up to a maximum amount of \$106.00 per hour of this service up to the allowable limits found in §§ 61.801 (d), (e), (f), and (j).

(c) In order to be considered allowable reimbursable costs for costs for an accredited and licensed healthcare facility, the following provisions apply:

(1) The OAG will reimburse a law enforcement agency for the cost associated with a healthcare facility that is certified by Medicare or accredited by the Joint Commission Accreditation of Health Organizations, and that is licensed by the Texas Department of Health.

(2) To be considered for reimbursement, the bill from the healthcare facility must be on a Uniform Billing form (UB-92) or on the standard form used by the healthcare facility, and must have a descriptive itemized statement of the service provided. The licensed, accredited or certified healthcare facility may use Revenue Code R-760 for a medical treatment room; or may use Revenue Code R-450 for an emergency room. The

OAG will reimburse a law enforcement agency for these healthcare facilities up to a maximum amount of \$250.00.

(d) In order to be considered allowable reimbursable costs for procedures and supplies, the following provisions apply:

(1) The bill for a colposcopy procedure may indicate CPT Code 57452. The OAG will reimburse a law enforcement agency up to a maximum amount of \$233.00 for this procedure. The bill for an office visit for a colposcopy procedure may indicate CPT Code 99025. The OAG will reimburse a law enforcement agency up to a maximum amount of \$26.00 for the office visit for this procedure. However, the cost of the colposcopy procedure includes the cost of the examination services of the professional and the OAG will not reimburse for both this procedure and the \$195.00 fee in §§ 61.804(b)(1) and 61.804(b)(2).

(2) The bill for an anoscopy procedure may indicate CPT Code 46600. The OAG will reimburse a law enforcement agency up to a maximum amount of \$71.00 for this procedure.

(3) The bill for a venipuncture procedure may indicate CPT Code 36415. The OAG will reimburse a law enforcement agency up to a maximum amount of \$20.00 for this procedure.

(4) The bill for laboratory procedures may indicate CPT Code 8000. The OAG will reimburse a law enforcement agency up to a maximum amount of \$150.00 for laboratory work. Laboratory procedures may include:

(A) Pregnancy test may indicate CPT Code 81025. The OAG will reimburse a law enforcement agency up to a maximum amount of \$6.00 for this procedure.

(B) Drug or alcohol screen, if drugging is suspected as a part of the crime, may indicate CPT Code series 80100-90. The OAG will reimburse a law enforcement agency up to a maximum amount of \$44.00 for this procedure.

(C) Chlamydia culture, if the victim is not sexually active, may indicate CPT Code 87110. The OAG will reimburse a law enforcement agency up to a maximum amount of \$37.00 for this procedure.

(D) Gonorrhea testing, if the victim is not sexually active, may indicate CPT Code 87070. The OAG will reimburse a law enforcement agency up to a maximum amount of \$16.00 for this procedure.

(E) Urine analysis for trichomoniasis of fungus may indicate CPT Code 81000-90. The OAG will reimburse a law enforcement agency up to a maximum amount of \$9.00 for this procedure.

(F) Syphilis test, if the victim is not sexually active, must indicate CPT Code 86592. The OAG will reimburse a law enforcement agency up to a maximum amount of \$11.00 for this procedure.

(5) The bill for the sexual assault examination kit may indicate Revenue Code R-270. The OAG will reimburse a law enforcement agency up to a maximum amount of \$50.00 for the kit.

(6) The bill for supplies and materials must have a Documentation of Procedures and must indicate CPT Code 99070. The OAG will reimburse a law enforcement agency up to a maximum amount of \$100.00 for supplies and materials.

(7) The bill for the handling and/or conveyance of the specimen may indicate CPT Code 99000. The OAG will reimburse a law enforcement agency up to a maximum amount of \$20.00 for handling and conveyance.

Current through November 30, 2011

## Utah

### UTAH ADMIN. CODE R. 270-1-22 (2012). SEXUAL ASSAULT FORENSIC EXAMINATIONS

A. Pursuant to Subsections 63M-7-502(20) and 63M-7-511(4)(i), the cost of sexual assault forensic examinations for gathering evidence and providing treatment may be paid by the CVR office in the amount of \$300.00 without photo documentation and up to \$600.00 with a photo examination. Pursuant

to Section 63M-7-521.5, the CVR office may also pay for the cost of medication and 70% of the eligible hospital services and supplies. Payment to the hospital or other eligible facility for the rent or use of an examination room or space for the purpose of conducting a sexual assault forensic exam shall not exceed \$350.00. The following agency guidelines need to be adhered to when making payments for sexual assault forensic examinations:

1. A sexual assault forensic examination shall be reported by the health care provider who performs the examination to law enforcement.
2. Victims shall not be charged for sexual assault forensic examinations.
3. Victims shall not be required to participate in the criminal justice system or cooperate with law enforcement or prosecuting attorneys as a condition of being provided a sexual assault forensic examination or as a condition of payment being made pursuant to this rule.
4. The agency may reimburse any licensed health care facility that provides services for sexual assault forensic examinations.
4. The agency may reimburse licensed medical personnel trained to gather evidence of sexual assaults who perform sexual assault forensic examinations.
5. CVR may pay for the collection of evidence and not attempt to prove or disprove the allegation of sexual assault.
6. A request for reimbursement shall include the law enforcement case number or be signed by a law enforcement officer, victim/witness coordinator or medical provider.
7. The application or billing for the sexual assault forensic examination must be submitted to CVR within one year of the examination.
8. The billing for the sexual assault forensic examination shall:
  - a. identify the victim by name, address, date of birth, Social Security number, telephone number, patient number;
  - b. indicate the claim is for a sexual assault forensic examination; and
  - c. itemize services and fees for services.
9. All collateral sources that are available for payment of the sexual assault forensic examination shall be considered before CVR Trust Fund monies are used. Pursuant to Subsection 63-25a-411(i), the Director may determine that reimbursement for a sexual assault forensic examination will not be reduced even though a claim could be recouped from a collateral source.
10. Evidence will be collected only with the permission of the victim or the legal guardian of the victim. Permission shall not be required in instances where the victim is unconscious, mentally incapable of consent or intoxicated.
11. Restitution for the cost of the sexual assault forensic examination may be pursued by the CVR office.
12. Payment for sexual assault forensic examinations shall be considered for the following:

a. Fees for the collection of evidence, for forensic documentation only, to include:

- i. history;
- ii. physical; and
- iii. collection of specimens and wet mount for sperm.

b. Emergency department services to include:

- i. emergency room, clinic room or office room fee;
- ii. cultures for gonorrhea, chlamydia, trichomonas, and tests for other sexually transmitted disease;
- iii. serum blood test for pregnancy;
- iv. morning after pill or high dose oral contraceptives for the prevention of pregnancy; and
- v. treatment for the prevention of sexually transmitted disease up to four weeks.

13. The victim of a sexual assault that is requesting payment by CVR for services needed or rendered beyond the sexual assault forensic examination needs to submit an application for compensation to the CVR office.

## **Vermont**

### **VT. STAT. ANN. TIT. 32, § 1407 (2011). COSTS TO BE BORNE BY THE STATE**

The state shall bear the costs of medical and psychological examinations administered to victims of crime committed in this state, in instances where that examination is requested by a law enforcement officer or a prosecuting authority of the state or any of its subdivisions. The state shall also bear the costs of medical examinations administered to victims in cases of alleged sexual assault where the victim obtains such an examination prior to receiving such a request. If, as a result of a sexual assault examination, the alleged victim has been referred for mental health counseling, the state shall bear the costs of such examination. These costs may be paid from the victims' compensation fund from funds appropriated for that purpose. The fund shall reimburse health care facilities and health care providers located in Vermont as defined in section 9402 of Title 18 at 70 percent of the billed charges for these claims, and the health care provider or facility shall not bill any balance to the crime victim. A victim, at his or her own expense, may obtain copies of the results of an examination under this section.

Current through the laws of First Session of the 2011-2012 Vermont General Assembly (2011).

## Virginia

### **VA. CODE ANN. § 19.2-165.1 (2011). PAYMENT OF MEDICAL FEES IN CERTAIN CRIMINAL CASES; REIMBURSEMENT**

A. Except as provided in subsection B, all medical fees expended in the gathering of evidence for all criminal cases where medical evidence is necessary to establish a crime has occurred and for cases involving abuse of children under the age of 18 shall be paid by the Commonwealth out of the appropriation for criminal charges, provided that any medical evaluation, examination, or service rendered be performed by a physician or facility specifically designated by the attorney for the Commonwealth in the city or county having jurisdiction of such case for such a purpose. If no such physician or facility is reasonably available in such city or county, then the attorney for the Commonwealth may designate a physician or facility located outside and adjacent to such city or county.

Where there has been no prior designation of such a physician or facility, such medical fees shall be paid out of the appropriation for criminal charges upon authorization by the attorney for the Commonwealth of the city or county having jurisdiction over the case. Such authorization may be granted prior to or within 48 hours after the medical evaluation, examination, or service rendered.

B. All medical fees expended in the gathering of evidence through physical evidence recovery kit examinations conducted on victims complaining of sexual assault under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 shall be paid by the Commonwealth pursuant to subsection F of § 19.2-368.11:1. Victims complaining of sexual assault shall not be required to participate in the criminal justice system or cooperate with law-enforcement authorities in order to be provided with such forensic medical exams.

C. Upon conviction of the defendant in any case requiring the payment of medical fees authorized by this section, the court shall order that the defendant reimburse the Commonwealth for payment of such fees.

### **VA. CODE ANN. § 19.2-368.11:1 (2011). AMOUNT OF AWARD**

A. Compensation for Total Loss of Earnings: An award made pursuant to this chapter for total loss of earnings which results directly from incapacity incurred by a crime victim shall be payable during total incapacity to the victim or to such other eligible person, at a weekly compensation rate equal to  $66 \frac{2}{3}$  percent of the victim's average weekly wages. The total amount of weekly compensation shall not exceed \$600. The victim's average weekly wages shall be determined as provided in § 65.2-101.

B. Compensation for Partial Loss of Earnings: An award made pursuant to this chapter for partial loss of earnings which results directly from incapacity incurred by a crime victim shall be payable during incapacity at a weekly rate equal to  $66 \frac{2}{3}$  percent of the difference between the victim's average weekly wages before the injury and the weekly wages which the victim is able to earn thereafter. The combined total of actual weekly earnings and compensation for partial loss of earnings shall not exceed \$600 per week.

C. Compensation for Loss of Earnings of Parent of Minor Victim: The parent or guardian of a minor crime victim may receive compensation for loss of earnings, calculated as specified in subsections A and B, for time spent obtaining medical treatment for the child and for accompanying the child to, attending or participating in investigative, prosecutorial, judicial, adjudicatory and post-conviction proceedings.

D. Compensation for Dependents of a Victim Who Is Killed: If death results to a victim of crime entitled to benefits, dependents of the victim shall be entitled to compensation in accordance with the provisions of §§ 65.2-512 and 65.2-515 in an amount not to exceed the maximum aggregate payment or the maximum weekly compensation which would have been payable to the deceased victim under this section.

E. Compensation for Unreimbursed Medical Costs, Funeral Expenses, Services, etc.: Awards may also be made on claims or portions of claims based upon the claimant's actual expenses incurred as are determined by the Commission to be appropriate, for (i) unreimbursed medical expenses or indebtedness reasonably incurred for medical expenses; (ii) expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the victim would have performed, for the benefit of himself and his family, if he had not been a victim of crime; (iii) expenses directly related to funeral or burial, not to exceed \$5,000; (iv) expenses attributable to pregnancy resulting from forcible rape; (v) mental health counseling for survivors as defined under subdivisions A 2 and A 4 of § 19.2-368.4, not to exceed \$2,500 per claim; (vi) reasonable and necessary moving expenses, not to exceed \$1,000, incurred by a victim or survivors as defined under subdivisions A 2 and A 4 of § 19.2-368.4; and (vii) any other reasonable and necessary expenses and indebtedness incurred as a direct result of the injury or death upon which such claim is based, not otherwise specifically provided for. Notwithstanding any other provision of law, a person who is not eligible for an award under subsection A of § 19.2-368.4 who pays expenses directly related to funeral or burial is eligible for reimbursement subject to the limitations of this section.

F. Notwithstanding the provisions of subdivision 3 of § 19.2-368.10, §§ 19.2-368.5, 19.2-368.5:1, 19.2-368.6, 19.2-368.7, 19.2-368.8, subsection G of this section, and § 19.2-368.16, the Criminal Injuries Compensation Fund shall pay for physical evidence recovery kit examinations conducted on victims of sexual assault. Any individual that submits to and completes a physical evidence recovery kit examination shall be considered to have met the reporting and cooperation requirements of this chapter. Funds paid for physical evidence recovery kit collection shall not be offset against the Fund's maximum allowable award as provided in subsection H. Payments may be subject to negotiated agreements with the provider. Healthcare providers that complete physical evidence recovery kit examinations may bill the Fund directly subject to the provisions of § 19.2-368.5:2. The Commission shall develop policies for a distinct payment process for physical evidence recovery kit examination expenses as required under subdivision 1 of § 19.2-368.3.

In order for the Fund to consider additional crime-related expenses, victims shall file with the Fund following the provisions of this chapter and Criminal Injuries Compensation Fund policy.

G. Any claim made pursuant to this chapter shall be reduced by the amount of any payments received or to be received as a result of the injury from or on behalf of the person who committed the crime or from any other public or private source, including an emergency award by the Commission pursuant to § 19.2-368.9.

H. To qualify for an award under this chapter, a claim must have a minimum value of \$100, and payments for injury or death to a victim of crime, to the victim's dependents or to others entitled to payment for covered expenses, after being reduced as provided in subsection G, shall not exceed \$25,000 in the aggregate.

Current through End of 2011 Regular Session and includes 2011 Sp. S. I, c. 1.

## Virgin Islands

### **V.I. CODE ANN. TIT. 34, § 206 (2011). MEDICAL EXAMINATION OF VICTIMS OF SEXUAL ASSAULT; COSTS**

(a) The Government of the United States Virgin Islands shall ensure that alleged victims of criminal sexual conduct, in any degree, or child sexual abuse shall not bear the cost of the routine medicolegal exam following the assault, provided the victim has filed an incident report with the U.S. Virgin Islands Police Department.

(b) These exams must be standardized relevant to medical treatment and to gathering evidence from the body of the victim and must be based on and must meet minimum standards for rape exam protocol as developed by the U.S. Virgin Islands Police Department. These exams shall include treatment for venereal disease, and shall include medication for pregnancy prevention if indicated and if desired. The U.S. Virgin Islands Police Department shall distribute these exam kits to any licensed health care facility providing sexual assault exams. When dealing with a victim of criminal sexual assault, the law enforcement agency shall immediately transport the victim to the nearest licensed health care facility which performs sexual assault exams. Any health care facility providing sexual assault exams shall use the standardized protocol described above.

(c) A licensed health care facility, upon completion of a routine sexual assault exam, as described in (b) above, performed on an alleged victim of criminal sexual conduct in any degree or of child sexual abuse, provided the crime occurred in the United States Virgin Islands, may file a claim for reimbursement directly to the Virgin Islands Criminal Victims Compensation Commission. The Virgin Islands Criminal Victims Compensation Commission shall develop procedures for health care facilities to follow when filing a claim with respect to the privacy of the victim. Health care facility personnel shall obtain any information necessary for the claim at the time of the exam if possible. The Virgin Islands Criminal Victims Compensation Commission shall reimburse eligible health care facilities directly.

Current through Act 7241 of the 2010 Regular Session. Annotations current through March 22, 2011.

## Washington

### **WASH. REV. CODE ANN. §7.68.170 (2012). EXAMINATION COSTS OF SEXUAL ASSAULT VICTIMS PAID BY STATE**

No costs incurred by a hospital or other emergency medical facility for the examination of the victim of a sexual assault, when such examination is performed for the purposes of gathering evidence for possible prosecution, shall be billed or charged directly or indirectly to the victim of such assault. Such costs shall be paid by the state pursuant to this chapter.

### **WASH. ADMIN. CODE §296-30-170 (2012). WHO IS REQUIRED TO PAY FOR SEXUAL ASSAULT EXAMINATIONS?**



When a sexual assault examination is performed for the purpose of gathering evidence for possible prosecution, the costs of the examination must be billed to the crime victims compensation program. We are the primary payer of this benefit. The client is not required to file an application with us to receive this benefit and may not be billed for these costs. If the examination includes treatment costs or the client will require follow-up treatment, an application for benefits must be filed with us for these services to be considered for payment.

Statutory Authority: RCW 7.68.030, 7.68.170. 00-03-056, S 296-30-170, filed 1/14/00, effective 2/14/00.  
Statutory Authority: Chapter 7.68 RCW. 86-01-028 (Order 85-37), S 296-30-170, filed 12/11/85; 85-03-060 (Order 85-3), S 296-30-170, filed 1/15/85.  
WAC 296-30-170, WA ADC 296-30-170

Current with amendments adopted through the 11-21 Washington State Register dated November 2, 2011.

***Proposed legislation: WA REG TEXT, Proposed Action on Regulations Jul. 06, 2011, Department of Labor and Industries***

## **West Virginia**

### **W. VA. CODE § 61-8B-16 (2011). PAYMENT FOR COSTS OF FORENSIC MEDICAL EXAMINATION**

(a) When any person alleges that he or she has been the victim of an offense proscribed by this article, the West Virginia prosecuting attorneys institute shall pay to a licensed medical facility from the forensic medical examination fund the cost of the forensic medical examination for the alleged victim on the following conditions and in the following manner:

- (1) The payment shall cover all reasonable, customary and usual costs of the forensic medical examination;
- (2) The costs of additional nonforensic procedures performed by the licensed medical facility, including, but not limited to, prophylactic treatment, treatment of injuries, testing for pregnancy and testing for sexually transmitted diseases, may not be paid from the fund: Provided, That nothing in this section shall be construed to prohibit a licensed medical facility from seeking payment for services referred to in this subdivision from the alleged victim or his or her insurer, if any;
- (3) The forensic medical examination must have been conducted within a reasonable time of the alleged violation;
- (4) The licensed medical facility must apply for payment of the costs of a forensic medical examination from the fund within a reasonable time of the examination;
- (5) The licensed medical facility shall certify that the forensic medical examination was performed and may submit a statement of charges to the West Virginia Prosecuting Attorneys Institute for payment from the fund.

(b) No licensed medical facility may collect the costs of a forensic medical examination from the alleged victim of a violation of this article or from the alleged victim's insurance coverage, if any.

(c) Nothing in this section shall be construed to require an alleged victim of sexual assault to participate in the criminal justice system or to cooperate with law enforcement in order to be provided a forensic medical examination pursuant to the provisions of this section.

## **W. VA. CODE § 61-8B-15 (2011). FORENSIC MEDICAL EXAMINATION FUND; TRAINING OF SEXUAL ASSAULT NURSE EXAMINERS**

There is continued the “Forensic Medical Examination Fund”, created as a special fund in the State Treasury, into which shall be deposited legislative appropriations to the fund. The West Virginia Prosecuting Attorneys Institute, created by the provisions of section six, article four, chapter seven of this code, shall make expenditures from the fund, where it is determined to be practical by the executive council and the executive director to pay the costs of forensic medical examinations as defined in section sixteen of this article, to train nurses to examine sexual assault victims and to reimburse the institute for its expenses in administering payments from the fund.

## **Wisconsin**

### **WIS. STAT. ANN. §949.20 (2011). DEFINITIONS**

In this subchapter:

- (1) “Cooperate with a law enforcement agency” means to report a sex offense to a law enforcement agency or to aid a law enforcement agency in the investigation of a sex offense.
- (2) “Department” means the department of justice.
- (3) “Examination costs” means the costs of an examination that is done to gather evidence regarding a sex offense, any procedure during that examination process that tests for or prevents a sexually transmitted disease, and any medication provided or prescribed, during that examination process, that prevents or treats a sexually transmitted disease that the person performing the examination or procedure believes could be a consequence of the sex offense. “Examination costs” does not include any processing or administrative costs, attorney fees, or other expenses.
- (4) “Guardian of the victim” means one of the following:
  - (a) If the victim is under 18 years of age, the parent, guardian, or legal custodian of the victim.
  - (b) If the victim has been determined to be incompetent under ch. 54, the guardian of the victim.
- (5) “Health care provider” means any person providing health care services.
- (6) “Law enforcement agency” has the meaning given in s. 165.83(1)(b).
- (7) “Sex offense” means an act committed in the state that, if committed by a competent adult, would be a violation, or an attempted violation, of s. 940.225, 948.02, 948.025, 948.05, 948.06, 948.08, or 948.09.
- (8) “Sexually transmitted disease” has the meaning given in s. 252.11(1).
- (9) “Victim” means a person against whom a sex offense has been committed.

Current through 2011 Act 46, published 11/15/2011

## **WIS. STAT. ANN. §949.24 (2011). APPLICATION FOR AWARD**

(1) Eligibility. Any health care provider who conducts an examination to gather evidence regarding a sex offense may apply for an award under this subchapter.

(2) Forms. The department shall prescribe application forms for awards under this subchapter and shall furnish health care providers with the forms.

(3) Medical records. An applicant shall submit to the department reports from any physician, physician's assistant, or nurse who treated or examined the victim to gather evidence regarding a sex offense, performed any procedure during that treatment or examination that tests for or prevents a sexually transmitted disease, or provided or prescribed any medication to prevent or treat a sexually transmitted disease. The applicant may not submit to the department any other records than those pertaining to the examination, treatment, procedure, or medication for which the applicant is seeking an award.

Current through 2011 Act 46, published 11/15/2011

## **WIS. STAT. ANN. §949.26 (2011). COMPUTATION OF AWARDS**

(1) Except as provided in sub. (1m), the department shall make an award under this section to a health care provider who conducts an examination to gather evidence regarding a sex offense to reimburse the health care provider only for the examination costs, as follows:

(a) If, under sub. (2)(b), the health care provider is not authorized to seek payment from insurance or another available source of payment, the award shall be the examination costs, regardless of whether the victim, or any guardian of the victim, cooperates with a law enforcement agency regarding the sex offense.

(b) If, under sub. (2)(b), the health care provider is authorized to seek payment from insurance or another available source of payment and the victim, or any guardian of the victim, does not cooperate with a law enforcement agency regarding the sex offense, the award shall be the examination costs, reduced by any payment to be received as a result of the authorization under sub. (2)(b).

(1m) The department may not make an award under this section if, under sub. (2)(b), the health care provider is authorized to seek payment and the victim, or any guardian of the victim, cooperates with a law enforcement agency.

(2)(a) A health care provider seeking an award under this section may not seek payment for any examination costs from the victim or any guardian of the victim.

(b) A health care provider seeking an award under this section may not seek payment for any examination costs from insurance or another available source of payment unless the victim or any guardian of the victim authorizes the health care provider to seek payment.

(3) The department may not refuse to make an award under this section because the victim or the guardian of the victim does not cooperate with a law enforcement agency regarding the sex offense, or due to lack of an investigation or prosecution of the sex offense.

Current through 2011 Act 46, published 11/15/2011

## **WIS. STAT. ANN. §949.28 (2011). LIMITATIONS ON AWARDS**

(1) No order for the payment of an award under this subchapter may be made unless the application was made within one year after the date of the examination. The department may waive the one-year requirement under this subsection in the interest of justice.

(2) The department may not make an award under this subchapter that exceeds the examination costs of the victim.

(3) The department may not make an award under this subchapter for any part of the examination costs of the victim for which the health care provider seeking the award has received compensation from any other source.

Current through 2011 Act 46, published 11/15/2011

## Wyoming

### **WYO. STAT. ANN. § 6-2-309 (2011). MEDICAL EXAMINATION OF VICTIM; COSTS; USE OF REPORT; MINORS; RIGHTS OF VICTIMS; REIMBURSEMENT**

(a) A law enforcement agency receiving a report of a sexual assault may, with the victim's consent, arrange for an examination of the victim by a licensed health care provider acting within the scope of the provider's practice. The examination may include a medical examination and treatment, evidence collection and evaluation, and appropriate referrals for follow-up treatment and services. Upon consent of the victim to release of the results of the examination, the evidence, record and reports shall be delivered to the law enforcement agency.

(b) Repealed by Laws 2006, ch. 77, § 2.

(c) Repealed by Laws 1991, ch. 130, § 2.

(d) Repealed by Laws 2006, ch. 77, § 2.

(e) If a report of a sexual assault is received from a minor victim, and the parents or guardian of the minor cannot be located promptly with diligent effort, the examination provided for by subsection (a) of this section may be conducted with the minor's consent. If a report of a sexual assault is received alleging a minor as the victim and a parent or guardian is the suspected perpetrator, the parent or guardian who is the suspected perpetrator shall not be notified pursuant to this section.

(f) Repealed by Laws 2006, ch. 77, § 2.

(g) Except as provided by subsection (j) of this section, the costs of any examination relating to the investigation or prosecution of a sexual assault shall be billed to and paid by the investigating law enforcement agency. These examination costs shall include the following:

(i) The cost of gathering evidence; and

(ii) Any other examinations authorized by law enforcement to aid in the investigation and prosecution of the sexual assault.

(h) Except as provided by subsection (j) of this section, any examination costs directly incurred by a sexual assault victim that are not covered by subsection (g) of this section, or other collateral source, shall be

submitted to the victim services division within the office of the attorney general for determination of eligibility for payment from the crime victims compensation account established by W.S. 1-40-114. All requests for compensation from the account shall be subject to the eligibility guidelines set forth in the Crime Victims Compensation Act, W.S. 1-40-101 through 1-40-119.

(j) A convicted offender of a sexual assault shall be ordered to reimburse any costs incurred under subsections (g) and (h) of this section and any other costs incurred as a direct result of the sexual assault.

(k) Each victim reporting a sexual assault shall be informed of the rights enumerated in this section, the victim's rights to informed consent and the victim's rights as a victim of crime. The victim shall also be informed of available medical, legal and advocacy services.

(m) The examinations authorized by this section shall remain confidential healthcare information unless the victim or the victim's parent or legal guardian executes a release of medical information for the purpose of prosecution to the county attorney, the state of Wyoming or any relevant court. However, if the report of sexual assault described in subsection (a) of this section results in the filing against any person of a criminal charge, or the filing of a petition alleging a delinquent act which would be a felony if committed by an adult, the written report disclosing the results of an examination made pursuant to this section shall be made available to the person charged or his counsel upon demand.

Current through the 2011 General Session

## Federal

### **42 U.S.C. § 3796GG-4 (2011). RAPE EXAM PAYMENTS**

(a) Restriction of funds

(1) In general

A State, Indian tribal government, or unit of local government, shall not be entitled to funds under this subchapter unless the State, Indian tribal government, unit of local government, or another governmental entity incurs the full out-of-pocket cost of forensic medical exams described in subsection (b) of this section for victims of sexual assault.

(2) Redistribution

Funds withheld from a State or unit of local government under paragraph (1) shall be distributed to other States or units of local government pro rata. Funds withheld from an Indian tribal government under paragraph (1) shall be distributed to other Indian tribal governments pro rata.

(b) Medical costs

A State, Indian tribal government, or unit of local government shall be deemed to incur the full out-of-pocket cost of forensic medical exams for victims of sexual assault if any government entity -

(1) provides such exams to victims free of charge to the victim;

(2) arranges for victims to obtain such exams free of charge to the victims; or

(3) reimburses victims for the cost of such exams if -

(A) the reimbursement covers the full cost of such exams, without any deductible requirement or limit on the amount of a reimbursement;

(B) the reimbursing governmental entity permits victims to apply for reimbursement for not less than one year from the date of the exam;

- (C) the reimbursing governmental entity provides reimbursement not later than 90 days after written notification of the victim's expense; and
- (D) the State, Indian tribal government, unit of local government, or reimbursing governmental entity provides information at the time of the exam to all victims, including victims with limited or no English proficiency, regarding how to obtain reimbursement.

(c) Use of funds

A State or Indian tribal government may use Federal grant funds under this subchapter to pay for forensic medical exams performed by trained examiners for victims of sexual assault, except that such funds may not be used to pay for forensic medical exams by any State, Indian tribal government, or territorial government that requires victims of sexual assault to seek reimbursement for such exams from their insurance carriers.

(d) Rule of construction

Nothing in this section shall be construed to permit a State, Indian tribal government, or territorial government to require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for charges incurred on account of such an exam, or both.

(e) Judicial notification

(1) In general

A State or unit of local government shall not be entitled to funds under this subchapter unless the State or unit of local government –

(A) certifies that its judicial administrative policies and practices include notification to domestic violence offenders of the requirements delineated in section 922(g)(8) and (g)(9) of title 18 and any applicable related Federal, State, or local laws; or

(B) gives the Attorney General assurances that its judicial administrative policies and practices will be in compliance with the requirements of subparagraph (A) within the later of –

(i) the period ending on the date on which the next session of the State legislature ends; or

(ii) 2 years.

(2) Redistribution

Funds withheld from a State or unit of local government under subsection (a) of this section shall be distributed to other States and units of local government, pro rata.

## **42 U.S.C. § 14136A (2011). SEXUAL ASSAULT FORENSIC EXAM PROGRAM GRANTS**

(a) In general

The Attorney General shall make grants to eligible entities to provide training, technical assistance, education, equipment, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence by medical personnel and other personnel, including doctors, medical examiners, coroners, nurses, victim service providers, and other professionals involved in treating victims of sexual assault and sexual assault examination programs, including SANE (Sexual Assault Nurse Examiner), SAFE (Sexual Assault Forensic Examiner), and SART (Sexual Assault Response Team).

(b) Eligible entity

For purposes of this section, the term "eligible entity" includes -

(1) States;

(2) units of local government; and

(3) sexual assault examination programs, including -

(A) sexual assault nurse examiner (SANE) programs;

- (B) sexual assault forensic examiner (SAFE) programs;
- (C) sexual assault response team (SART) programs;
- (D) State sexual assault coalitions;
- (E) medical personnel, including doctors, medical examiners, coroners, and nurses, involved in treating victims of sexual assault; and
- (F) victim service providers involved in treating victims of sexual assault.

(c) Authorization of appropriations

There are authorized to be appropriated \$30,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

## Payment of Forensic Examinations: Summary Charts

### PAYMENT AGENCY

State	<i>Explicit prohibition against charging victims for exam?</i>	<i>Who pays?</i>	<i>Standard kit provided?</i>
<b>Alabama</b>		Alabama Crime Victims Compensation Commission (Ala. Code §15-23-5(24); Ala. Admin Code r. 262-X-11-.01)	Yes, by Alabama Department of Forensics, including kits created by the department and those that are comparable. (Ala. Admin. Code r. 262-X-11-.01)
<b>Alaska</b>	Yes (Alaska Stat. §18.68.010(c); AS § 18.68.040))		Yes, by Department of Public Safety (Alaska Stat. §18.68.010(b)(1))
<b>American Samoa</b>	No information found.		
<b>Arizona</b>		The county in which alleged sexual assault occurred (Ariz. Rev. Stat.. §13-1414)	
<b>Arkansas</b>	Yes (Ark. Code Ann. §12-12-403(b)(1)(A); Ark. Code Ann.. §12-12-403(c)(2); Ark. Code R. 143.00.1-20 "Examinations and Treatment - Payments" (2))	Arkansas Crime Victims Reparations Board (Ark. Code Ann. 143.00.1-20 "REIMBURSEMENT OF ALL MEDICAL FACILITIES" (1))	
<b>California</b>	Yes (Cal. Penal Code §13823.95(a))	Local law enforcement agency in whose jurisdiction the alleged offense was committed (Cal. Penal Code §13823.95(c))	
<b>Colorado</b>	Yes (Col. Rev. Stat. Ann. §18-3-407.5(3)(b))	The division of criminal justice in the department of public safety (Colo. Rev. Stat. Ann. §18-3-407.5(3)(b)) Referring or requesting law enforcement agency (Colo. Rev. Stat. Ann. §18-3-407.5(1))	



State	<i>Explicit prohibition against charging victims for exam?</i>	<i>Who pays?</i>	<i>Standard kit provided?</i>
<b>Connecticut</b>	Yes, when such examination is performed for the purpose of gathering evidence as prescribed in the protocol (Conn. Gen. Stat. Ann. §19A-112A(e)(1))	Office of Victim Services within the Judicial Department (Conn. Gen. Stat. Ann. §19A-112A(e)(1))	Yes, by Commission on the Standardization of the Collection of Evidence in Sexual Assault Investigations (Conn. Gen. Stat. Ann. §19A-112A(c))
<b>Delaware</b>	Yes (Del. Code Ann. tit. 11 §9023(c); Del. Code Ann. tit. 11 §9023(d))	Patient's insurance carrier, including Medicaid and Medicare, if available (Del. Code Ann. tit. 11 §9023(c)); If insurance is unavailable, or does not cover the full costs, Victim Compensation Fund (Del. Code Ann. tit. 11 §9023(a), (c), (d))	
<b>District of Columbia</b>		Crime Victim Compensation Program (D.C. Code § 4-506(a) <sup>3</sup>	
<b>Florida</b>	Yes (Fla. Stat. Ann. §960.28(1)-(2))	Crime Victims' Services Office (Fla. Stat. Ann. §960.28(2))	
<b>Georgia</b>	Yes (Ga. Code Ann., §17-5-72)	Georgia Crime Victims Emergency Fund (Ga. Code Ann., §17-5-72), Georgia Crime Victims Emergency Fund shall be responsible for the cost of the medical examination to the extent that expense is incurred for the limited purpose of collecting evidence. (Ga. Code Ann., §16-6-1(c))	
<b>Guam</b>	Yes (Guam Code Ann. tit. 8, § 120.60)	Sexual assault services are to be paid at public expense (Guam Police Department, General Order No. 03-010 (Oct. 15, 2003))	
<b>Hawaii</b>		Fees for the examination shall be paid from funds appropriated for expenses of administration by the Crime Victim Compensation Commission, after collections from any third party how has liability. (Haw. Rev. Stat. §351-15) <sup>4</sup>	

<sup>3</sup> General mechanism for payment of medical services, not specific to sexual assault.

<sup>4</sup> General mechanism for payment of medical services, not specific to sexual assault.

<b>State</b>	<i>Explicit prohibition against charging victims for exam?</i>	<i>Who pays?</i>	<i>Standard kit provided?</i>
<b>Idaho</b>		Crime victims compensation account (Idaho Code Ann. §19-5303; I.C. § 72-1019(2))	
<b>Illinois</b>	Yes (89 Ill. Admin. Code tit. 148.510(f); 410 Ill. Comp. Stat. 70/7(a))	Patient's insurance, or Illinois Sexual Assault Emergency Treatment Program (215 Ill. Comp. Stat. 125/4-4; 410 Ill. Comp. Stat. 70/7)	Yes, by Illinois State Police (410 Ill. Comp. Stat. 70/6.4(a)(1))
<b>Indiana</b>	Yes (Ind. Code §5-2-6.1-39(a)), including additional forensic services, if administered (Ind. Code §5-2-6.1-39(b))	Victim services division of the Indiana criminal justice institute (Ind. Code § 5-2-6.1-39(a))	
<b>Iowa</b>	Yes (Iowa Admin. Code r. 61-9.84(915))	Victim Compensation Fund (Iowa Code Ann. § 915.41; Iowa Admin. Code r. 641-11.73(709B))	Yes, by the Iowa Department of Public Safety, Division of Criminal Investigation. (Iowa Admin. Code r. 61-9.83(915)(9.83)(2))
<b>Kansas</b>	Yes (Kan. Stat. Ann. 65-448(c))	County where the alleged offense was committed (Kan. Stat. Ann. 65-448(c))	
<b>Kentucky</b>	Yes (Ky.Rev.Stat.Ann. §216B.400(9))	Crime Victims' Compensation Board (Ky.Rev.Stat.Ann. §216B.400(8)(a))	
<b>Louisiana</b>		Parish governing authority. (La. Admin. Code tit. 22, § 503(M)(2))	

<b>State</b>	<i>Explicit prohibition against charging victims for exam?</i>	<i>Who pays?</i>	<i>Standard kit provided?</i>
<b>Maine</b>	Yes (26-550 Me. Code Ann. R. §3(1))	Victim Compensation Fund (26-550 Me. Code Ann. R. § 3(2); Maine Rev. Stat. Ann. tit. 5 § 3360-M(1); Maine Rev. Stat. Ann. tit. 24 § 2986(2); 26-550 Me. Code Ann. R. §1(1)); In all cases reported to a law enforcement officer of sexual crimes against minors or assault when serious bodily injury has been inflicted, the office of the district attorney of the county in which the alleged crime occurred...only in the absence of medical insurance or other 3rd-party coverage of the expenses of examination and only from a fund or account appropriated for that purpose (Maine Rev. Stat. Ann. tit. 30, § 287(1-2))	Yes, by the Department of Public Safety. (Maine Rev. Stat. Ann. tit. 25, § 2915; 16-222 Me. Code Ann. Ch. 20, Refs & Annos; Maine Rev. Stat. Ann. tit. 24, § 2986(1); 26-550 Me. Code Ann. R. §3(2))
<b>Maryland</b>	Yes (Md Code Ann. Health-Gen., § 15-127(b); Md. Code Regs. 10.12.02.05(A)(1)-(2))	Department of Health and Mental Hygiene (Md Code, Health-Gen., § 15-127(b)); local Maryland Crime Victims' Services Program (Md. Code Regs. 07.01.16.05(A)(5), to the extent that services are not paid for by another agency or a third party)	Yes (Md. Code Regs. 10.12.02.05(B)(1)(a))
<b>Massachusetts</b>		Crime Victims Compensation (940 Mass. Code Regs. 14.05(d); 940 Mass Code Regs. 14.06)	Yes, designed by municipal police training committee (Mass. Gen. Laws Ann. Ch. 41, §97B)
<b>Michigan</b>	Yes (Mich. Comp. Laws Ann. §18.355A(2))	Crime Victims Services and Compensation (Mich. Comp. Laws Ann. §18.351 et seq.)	Standard Kits will be approved by the Department of Police. (Mich. Comp. Laws Ann. §333.21527(3))
<b>Minnesota</b>	Yes (Minn. Stat. Ann. §609.35(b))	County in which the criminal sexual conduct occurred (Minn. Stat. Ann. §609.35(a))	

<b>State</b>	<i>Explicit prohibition against charging victims for exam?</i>	<i>Who pays?</i>	<i>Standard kit provided?</i>
<b>Mississippi</b>	Yes (Miss. Code Ann. § 99-37-25(1)(a)); BUT victim may be billed for any further medical services not required for the investigation and prosecution of the alleged offense, and may apply for victim compensation for those charges (Miss. Code Ann. § 99-37-25(1)(a))	Division of Victim Compensation, Office of the Attorney General (Miss. Code Ann. § 99-37-25(1)(a))	
<b>Missouri</b>	Yes (Mo. Ann. stat. §595.220(6))	Department of Public Safety, with conditions (Mo. Stat. Ann. §595.220(1); Mo. Code Regs. tit. 11, § 30-12.010)	Yes, provided by the highway patrol or its designees and eligible crime laboratories (Mo. Stat. Ann. §595.220(4))
<b>Montana</b>	Yes (Mont. Admin. R. 23.15.402(4))	Local law enforcement agency within whose jurisdiction an alleged incident of sexual intercourse without consent, sexual assault, or incest occurs, when the examination is directed by the agency or when evidence obtained by the examination is used for the investigation, prosecution, or resolution of an offense (Mont. Code Ann. §46-15-411(1)); Office of Restorative Justice in the Department of Justice, if the cost is not the responsibility of a local law enforcement agency, as long as funds are available from an appropriation made for this purpose (Mont. Code Ann. §46-15-411(2))	Yes, by FREPP (Mont. Admin. R. 23.15.401(1))

State	<i>Explicit prohibition against charging victims for exam?</i>	<i>Who pays?</i>	<i>Standard kit provided?</i>
<b>Nebraska</b>		Law enforcement agency of a political subdivision if such law enforcement agency is the primary investigating law enforcement agency investigating the reported sexual assault (Neb. Rev. St. § 13-607(1)); Nebraska State Patrol if the patrol is the primary investigating law enforcement agency investigating the reported sexual assault (Neb. Rev. St. § 81-2010.03(1))	Every health care professional shall utilize standardized sexual assault evidence collection kit as approved by the Attorney General. (Neb. Rev. St. § 29-4306)
<b>Nevada</b>	Yes (Nev. Rev. Stat. §449.244(1))	County in whose jurisdiction a sexual assault is committed, payment is not to exceed \$1,000 and any remainder must be handled the same as other hospital costs. (Nev. Rev. Stat. §449.244(1)-(2); Nev. Rev. Stat. §217.300)	
<b>New Hampshire</b>	Yes (N.H. Code Amin. R. Ann. Just. 605.12(a); N.H. Rev. Stat. § 21-M:8-C)	Victim's insurer or, if no insurer, Department of Justice (Victim Compensation) (N.H. Code Amin. R. Ann. Just. 605.12(a))	Yes, by the Department of Justice. (N.H. Rev. Stat. § 21-M:8-D)
<b>New Jersey</b>	Yes (Attorney General Standards for Providing Services to Victims of Sexual Assault, Standard 5)	Victims of Crime Compensation Board (Attorney General Standards for Providing Services to Victims of Sexual Assault, Standard 5)	Yes, provided by the County Prosecutor's Office (Attorney General Standards for Providing Services to Victims of Sexual Assault, Standard 4)
<b>New Mexico</b>	Yes (N.M. Sexual Assault Evidence Kit Instruction; N.M. Stat. Ann. § 29-11-7)	State of New Mexico; verified bills are then paid by the Coalition of Sexual Assault Programs through a special Division of Mental Health fund ( <a href="http://www.nmcsap.org/services.html">http://www.nmcsap.org/services.html</a> )	Yes, by the New Mexico Coalition of Sexual Assault Program (N.M. Sexual Assault Evidence Kit Instructions)
<b>New York</b>	Yes (N.Y. Exec. Law §631(13); N.Y. Comp. Codes R. & Regs. tit. 9, 525.12(h)(2))	Office of Victims Services or the victim's insurer, if the victim is assigned private insurance benefits. (N.Y. Exec. Law §631(13))	Yes, by division of criminal justice services (N.Y. Pub. Health Law §2805-i(4-a))
<b>North Carolina</b>	Yes (N.C. Gen. Stat. Ann. §143B-480.1(b))	Assistance Program for Victims of Rape and Sex Offenses (N.C. Gen. Stat. Ann. §143B-480.1(b))	
<b>North Dakota</b>	Yes (N.D. Cent. Code §12.1-34-07(1))	Attorney general (N.D. Cent. Code §12.1-34-07(3))	

<b>State</b>	<i>Explicit prohibition against charging victims for exam?</i>	<i>Who pays?</i>	<i>Standard kit provided?</i>
<b>Ohio</b>	Yes (Ohio Rev. Code Ann. §2907.28(B))	Reparations fund, subject to conditions. (Ohio Rev. Code Ann. §2907.28(A))	
<b>Oklahoma</b>		Crime Victims Compensation Board (Okl. Stat. Ann. tit. 21, §142.20(C))	
<b>Oregon</b>	Yes (Or. Admin. R. 137-084-0020(4))	Department of Justice, subject to availability of funds from gifts, grants and donations in the Sexual Assault Victims' Emergency Medical Response Fund (Or. Rev. Stat. §147.397(1))	Yes, Oregon State Police SAFE Kit (Or. Admin. R. 137-084-0010(4))
<b>Pennsylvania</b>	Yes (18 Pa. Cons. Stat. §11.707(h)(2); 42 Pa. Cons. Stat. Ann. §1726.1)	Pennsylvania Commission on Crime and Delinquency, Office of Victim Services' Victims Compensation Assistance Program, if insurance does not cover or if victims elect to not bill their insurance (18 Pa. Cons. Stat. §11.707(h)(1))	Yes, The Sexual Assault Testing and Evidence Collection Act, (35 P. S. §§ 10172.1, 10172.4), specifies minimum standards for forensic exams, regulated by the Pennsylvania Department of Health. Effective October 1, 2008, minimum standards for forensic examinations have been incorporated into newly created statewide forensic rape exam kits.
<b>Puerto Rico</b>		Crime Victims Compensation Office (P.R. Laws Ann. tit. 25, § 981D(d))	
<b>Rhode Island</b>		Crime Victims Compensation Program (R.I. Code §29-1-5:1.05; R.I. Code §29-1-5:1.03(17)). <sup>5</sup>	
<b>South Carolina</b>	Yes (S.C. Code Ann. §16-3-1350(A))	South Carolina Crime Victim's Compensation Fund (S.C. Code Ann. §16-3-1350(C))	Yes, by South Carolina Law Enforcement Division (S.C. Code Ann. §16-3-1350(B))
<b>South Dakota</b>	Yes (S.D. Codified Laws §22-22-26)	The county where the alleged rape or sexual offense occurred, and which shall be reimbursed by any defendant if convicted. (S.D. Codified Laws § 22-22-26).	
<b>Tennessee</b>	Yes (Tenn. Code Ann. §29-13-118(b)(1))	Criminal injuries compensation fund (Tenn. Code Ann. §29-13-118(b)(1))	

<sup>5</sup> General mechanism for payment of medical services, not specific to sexual assault.

<b>State</b>	<i>Explicit prohibition against charging victims for exam?</i>	<i>Who pays?</i>	<i>Standard kit provided?</i>
<b>Texas</b>	Yes (Tex. Code of Crim. Proc. Ann. Art. §56.065(h)(2))	Department of Public Safety, reimbursed by attorney general, if victim has not reported assault to law enforcement (Vernon's Ann. Texas C.C.P. Art. Tex. Code of Crim. Proc. Ann. Art. enforcement agency that requests a medical examination of a victim, reimbursable by attorney general (Tex. Code of Crim. Proc. Ann. Art. §56.06(c); 1 TX ADC § 61.801(a))	No, but standard protocol distributed by Sexual Assault Prevention and Crisis Services (Tex. Gov't Code Ann. §420.031)
<b>Utah</b>	Yes (Utah Admin. Code R270-1(R270-1-22)(A)(2))	Crime Victim Reparations Office (Utah Admin. Code R270-1(R270-1-22)(A))	
<b>Vermont</b>	Yes (Vt. Stat. Ann. tit. 32, §1407)	Victims compensation fund (Vt. Stat. Ann. tit. 32, §1407)	
<b>Virginia</b>		Commonwealth (Va. Code Ann. § 19.2-165.1(B)); Criminal Injuries Compensation Fund (VA Code Ann. § 19.2-368.11:1(F))	
<b>Virgin Islands</b>	Yes, provided the victim has filed an incident report with the U.S. Virgin Islands Police Department (V.I. Code Ann. tit. 34, §206(a))	Virgin Islands Criminal Victims Compensation Commission (V.I. Code Ann. tit. 34, §206(c))	Yes, by U.S. Virgin Islands Police Department (V.I. Code Ann. tit. 34, §206(b))
<b>Washington</b>	Yes, when such examination is performed for the purposes of gathering evidence for possible prosecution (Wash. Rev. Code Ann. §7.68.170; Wash. Admin. Code §296-30-170)	Crime victims compensation program (WA ADC 296-30-170)	
<b>West Virginia</b>	Yes (W. VA. Code § 61-8B-16(b))	West Virginia prosecuting attorneys institute, from the forensic medical examination fund, with conditions. (W. VA. Code § 61-8B-16(a))	
<b>Wisconsin</b>	Yes (Wis. Stat. Ann. §949.26(2)(a))	Department of Justice (Wis. Stat. Ann. §949.26(1))	

<b>State</b>	<i>Explicit prohibition against charging victims for exam?</i>	<i>Who pays?</i>	<i>Standard kit provided?</i>
<b>Wyoming</b>		Investigating law enforcement agency (Wyo. Stat. Ann. §6-2-309(g)); Costs not covered by §6-2-309(g) shall be submitted to the victim services division within the office of the attorney general for determination of eligibility for payment from the crime victims compensation account (Wyo. Stat. Ann. §6-2-309(h)).	



## Summary Charts

### PAYMENT CRITERIA

<b>State</b>	<i>How much is paid?</i>	<i>What services are paid for?</i>	<i>What's not paid for?</i>	<i>Other authorization or eligibility requirements?</i>	<i>Disqualifying factors (that reduce or disallow payment)?</i>
<b>Alabama</b>	The Commission shall reduce an award amount by the amount already received from a collateral source (Ala. Admin. Code r. 262-X-11-.02(4))	Initial forensic examination performed on victims of sexual offenses for the purpose of obtaining evidence to pursue criminal charges against sexual assault offenders, including expenses incurred for processing sexual assault examination kits, sexual assault examination kits developed by the Alabama Department of Forensics and comparable kits, child sexual assault examinations, and testing and preventative treatment for sexually transmitted diseases and pregnancy. (Ala. Admin. Code r. 262-X-11-.01(1))	Treatment for injuries and medication such as anti-depressants, sedatives or tranquilizers. (Ala. Admin. Code r. 262-X-11-.01(2)(a)-(b))	Charges for the sexual assault examination must be submitted by a hospital, physician or SANE (Sexual Assault Nurse Examiner) program (Ala. Admin. Code r. 262-X-11-.01(a)); Expenses must have been incurred on or after July 27, 1995 (Ala. Admin. Code r. 262-X-11-.02(1))	If investigation determines that a rape or sexual assault did not occur (i.e., repeat false reports), the submitted bill shall be denied (Ala. Admin. Code r. 262-X-11-.02(3)); Reimbursement shall not be made for the cost of the Sexual Assault Evidence Collection Kit if the kit was provided at no cost to the health care provider (Ala. Admin. Code r. 262-X-11-.02(5))
<b>Alaska</b>		Sexual Assault Examination Kit (AS §18.68.010); Examination of victim necessary for collecting evidence using the kit or for determining whether a sexual			

<b>State</b>	<i>How much is paid?</i>	<i>What services are paid for?</i>	<i>What's not paid for?</i>	<i>Other authorization or eligibility requirements?</i>	<i>Disqualifying factors (that disallow payment)?</i>
		assault has occurred (Alaska Stat. §18.68.040).			
<b>Arizona</b>		Expenses arising out of the needs to secure evidence that a person has been a victim of a dangerous crime against children or a sexual assault, as defined by statute (Ariz. Rev. Stat. §13-1414).			
<b>Arkansas</b>	Cost ceiling for each claim and the determination of reasonable cost determined by Crime Victims Reparations Board (Ark. Code Ann. §12-12-404)			Victim must receive the medical-legal examination within seventy-two (72) hours of the attack (Ark. Code Ann. §12-12-403(b)(1)(A)) (However, the seventy-two-hour time limitation may be waived if the victim is a minor or if good cause exists for the failure to provide the exam within the required time (A.C.A. § 12-12-403(b)(1)(B))); itemized statement (A.C.A. § 12-12-403(c)(1))	

State	How much is paid?	What services are paid for?	What's not paid for?	Other authorization or eligibility requirements?	Disqualifying factors (that disallow payment)?
<b>California</b>	The amount that may be charged by a qualified health care professional, hospital, or other emergency medical facility to perform the medical evidentiary examination portion of a medical examination of a victim of a sexual assault shall not exceed three hundred dollars (\$300) (Cal. Penal Code §13823.95(d)).	Testing for venereal disease and pregnancy (West's Ann. Cal. Health & Safety Code § 1491); Physical examination and preservation of evidence (Cal. Penal Code §13823.11(g); Cal. Penal Code §13823.7(d)); Postcoital contraception, upon request (Cal. Penal Code §13823.11(e)(2))			
<b>Colorado</b>		Any direct cost associated with the collection of forensic evidence from the victim (Colo. Rev. Stat. Ann. §18-3-407.5(1))			
<b>Connecticut</b>	Hospitals may be reimbursed for up to \$900 of the examination. (Connecticut Technical Guidelines for Health Care	Testing for pregnancy and sexually transmitted diseases, and prophylactic treatment (Conn. Gen. Stat. Ann. §19A-112A(e)(1)); toxicology screening (Conn. Gen. Stat. Ann. § 19A-112A(e)(2)); and examinations which are	Physical injuries requiring medical treatment beyond the scope of the sexual assault examination. Hospitals are also responsible for	If the sexual assault has occurred more than 72 hours prior to presentment, completion of the sexual assault examination kit is not <i>routinely</i> done. (Connecticut Technical	

State	How much is paid?	What services are paid for?	What's not paid for?	Other authorization or eligibility requirements?	Disqualifying factors (that disallow payment)?
	Response to Victims of Sexual Assault; Conn. Gen. Stat. Ann. §19A-112A(b)(1))	performed for the purpose of gathering evidence (Conn. Gen. Stat. Ann. § 19A-112A(e)(1)).	absorbing examination-related expenses in excess of \$900. (Connecticut Technical Guidelines for Health Care Response to Victims of Sexual Assault; Conn. Gen. Stat. Ann. §19A-112A(b)(1))	Guidelines for Health Care Response to Victims of Sexual Assault; Conn. Gen. Stat. Ann. §19A-112A(b)(1))	
<b>Delaware</b>	Maximum amount to be determined by the Agency. If the hospital or health care professional has recovered from insurance, the Agency shall only provide compensation sufficient to total the maximum amount provided for in the Agency's rules and regulations. (Del. Code Ann. tit. 11, § 9023(c))	Collecting all evidence as called for in the sexual offense evidence collection kits and may include any of: (1) Physician's fees for the collection of the patient history, physical, collection of specimens and treatment for the prevention of venereal disease, including 1 return follow-up visit; (2) Emergency department expenses, including emergency room fees and cost of pelvic tray; and (3) Laboratory expenses for wet mount for sperm, swabs for acid phosphates and ABH antigen; blood typing, serology			

<b>State</b>	<i>How much is paid?</i>	<i>What services are paid for?</i>	<i>What's not paid for?</i>	<i>Other authorization or eligibility requirements?</i>	<i>Disqualifying factors (that disallow payment)?</i>
		for syphilis and Hepatitis B; cultures for gonorrhea, chlamydia, trichomonas and other sexually transmitted diseases; pregnancy testing; urinalysis; and any other laboratory test needed to collect evidence that could be used in the prosecution of the offense. (Del. Code Ann. tit. 11, § 9023(b))			
<b>District of Columbia</b>		Prophylactic antibiotics for the treatment of sexually transmitted diseases and emergency contraception (D.C. Code § 7-2123)		Victims satisfy the reporting requirement by seeking a forensic medical examination (D.C. Code § 4-506(c)(2))	
<b>Florida</b>	Payment may not exceed \$500 (Fla. Stat. Ann. §960.28(2))	Medical expenses connected with the initial forensic physical examination (Fla. Stat. Ann. §960.28(2); Fla. Admin. Code Ann. 2A-3.002(5))		Payment may be made to a medical provider using an statutorily qualified examiner (Fla. Stat. Ann. §960.28(2); Fla. Admin. Code Ann. 2A-3.002(2)); itemized bill (Fla. Admin. Code Ann. 2A-3.002(4)); identifying information (Fla. Admin. Code Ann. 2A-3.002(1) & (3));	

<b>State</b>	<i>How much is paid?</i>	<i>What services are paid for?</i>	<i>What's not paid for?</i>	<i>Other authorization or eligibility requirements?</i>	<i>Disqualifying factors (that disallow payment)?</i>
<b>Georgia</b>	Amount not to exceed \$1,000.00 (Ga. Code Ann., § 17-15-15)	Expenses incurred to the extent of evidence being collected for the limited purpose of collecting evidence (Ga. Code Ann., § 16-6-1(c)).		Georgia Crime Victims Emergency Fund shall be responsible for the cost of the medical examination to the extent that expense is incurred for the limited purpose of collecting evidence. (Ga. Code Ann., § 16-6-1(c))	
<b>Guam</b>		Services provided, free of charge, shall include but are not limited to pre and post HIV counseling and prevention and other STD (Guam Code Ann. tit. 8, § 120.60(b)(1))			
<b>Hawaii</b>	No information found.				
<b>Idaho</b>		Examination for the purpose of procuring evidence for use by law enforcement (Idaho Code Ann. §19-5303).	No payment for pain and suffering or property damage (Idaho Code Ann. §72-1019(6)).		
<b>Illinois</b>		Examination and testing of a victim to establish that sexual contact did occur or did not occur, STD testing, and examination and treatment of injuries (215 Ill. Comp. Stat. 125/4-4(1)); ambulance transportation, emergency room treatment, and prescribed medications (410		Victim's seeking of forensic medical exam satisfies notification and cooperation requirements under Crime Victims Compensation Act (740 Ill. Comp. Stat 45/6.1(b-1)); 740 Ill. Comp. Stat 45/6.1(c)).	

State	How much is paid?	What services are paid for?	What's not paid for?	Other authorization or eligibility requirements?	Disqualifying factors (that disallow payment)?
		Ill. Comp. Stat 70/7(a))			
<b>Indiana</b>		<p>(1) Reasonable costs of counseling services</p> <p>(2) Evidence-gathering and diagnostic physical examinations.</p> <p>(3) Initial pregnancy and STD testing related to the alleged sex crime.</p> <p>(4) Other itemized laboratory work, including follow-up tests,</p> <p>(5) Treatment of injuries, including anesthesia and prescribed medications.</p> <p>(6) X-rays.</p> <p>(7) Other limited outpatient emergency treatment at the discretion of the division.</p> <p>(203 Ind. Admin. Code 1-2-3(a))</p>	<p>Inpatient hospital services and nonsexual assault related services.</p> <p>(203 Ind. Admin. Code 1-2-3(c))</p>	<p>The victim is at least eighteen (18) years of age; if the victim is less than eighteen (18) years of age, a report of the sex crime must be made to child protective services or a law enforcement officer; and the sex crime occurred in Indiana.</p> <p>(Indiana Code Section - 5-2-6.1-39(f)); Within forty-eight (48) hours following the alleged crime, a police report regarding the incident has been filed; or appropriate law enforcement agency has been contacted. A representative of a law enforcement agency must, in writing, confirm that the sex crime victim has cooperated in the initial law enforcement investigation and report.</p> <p>(203 Ind. Admin. Code 1-2-1(a))</p>	

<b>State</b>	<i>How much is paid?</i>	<i>What services are paid for?</i>	<i>What's not paid for?</i>	<i>Other authorization or eligibility requirements?</i>	<i>Disqualifying factors (that disallow payment)?</i>
<b>Iowa</b>	Maximum of \$500: Up to \$300 for the examination facility and \$200 for examiner fees. Any charges in excess of these amounts will require additional documentation from the provider. (Iowa Admin. Code r. 61-9.83(915)(9.83(2)) )	Examiner's fee for collection of: (1) Patient's medical history; (2) Physical examination; (3) Collection of laboratory specimens; (4) Return visits to test for STD; (5) Treatment for the prevention of STD; examination facility: (1) Emergency room, clinic room or office room fee; (2) Pelvic tray and medically required supplies; and laboratory collection and processing of specimens for: criminal evidence; STD; and pregnancy testing. (Iowa Admin. Code r. 61-9.83(915)(9.83(1)))		Federal identification number or social security number of the claimant; form or bill submitted must identify the sexual assault victim by name, birth date, and patient number, indicate that the claim is for a sexual abuse examination, and itemize all services rendered and the fee for each service. (Iowa Admin. Code r. 61-9.82(915))	
<b>Kansas</b>		Examination; sexual assault examination kit (Kan. Stat. Ann. 65-448(c)).			
<b>Kentucky</b>		Examination, including basic treatment and sample gathering services, laboratory tests (Ky. Rev. Stat. Ann. §216B.400(3)-(4)).			



State	<i>How much is paid?</i>	<i>What services are paid for?</i>	<i>What's not paid for?</i>	<i>Other authorization or eligibility requirements?</i>	<i>Disqualifying factors (that disallow payment)?</i>
<b>Louisiana</b>	Payment for this examination by the parish governing authority is mandated by state law. All other expenses related to these crimes are eligible for reimbursement by the board at 100 percent, subject to the provisions of the Crime Victims Reparations Act and its administrative rules. (La. Admin. Code tit. 22, § 503(M)(2))	If no report: regular emergency room exam and treatment. The hospital's responsibilities, beyond medical treatment, shall be limited to the collection of tests, procedures, or samples that may serve as potential evidence. (La. Rev. Stat. Ann. 40:2109.1(A)(2))	No payment for more than 7 days in-patient psychiatric treatment at \$700 per day; more than one psychological evaluation; intake evaluation or psychological testing; more than one in-patient group or individual per day; community meetings are not reimburseable; therapeutic groups or therapists outside the per diem hospital will not be reimbursed (La. Admin. Code tit. 22, §503(G)(6))		

State	How much is paid?	What services are paid for?	What's not paid for?	Other authorization or eligibility requirements?	Disqualifying factors (that disallow payment)?
<b>Maine</b>	Maximum of \$750 (Maine Rev. Stat. Ann. tit. 5, §3360-M(2)); statutory maximum of \$500.00 (26-550 Me. Code Ann. R. §1(1))	Services directly related to the gathering of forensic evidence and related testing and treatment for pregnancy and sexually transmitted diseases (Maine Rev. Stat. Ann. tit. 5, § 3360-M(2)); Must have available and offer, at least: (1) Professional/practitioner's services history Physical Collection of specimens Treatment for the prevention of sexually transmitted infection (2) Emergency room pelvic tray fee (3) Blood testing for STDs (4) Pregnancy testing (blood test or urinalysis) (5) Other laboratory tests for evidentiary examination (6) Medications (26-550 Me. Code Ann. R. §1(1)(A))			
<b>Maryland</b>	Maximum of \$80 for examination and collection of evidence, plus physician's usual and customary fee	(1) A physical examination to gather information and evidence as to the alleged crime; (2) Emergency hospital treatment and follow-up		(a) The victim is seen within 120 hours of the alleged sexual offense; and (b) Either: (i) A police report has been filed with the appropriate	

State	How much is paid?	What services are paid for?	What's not paid for?	Other authorization or eligibility requirements?	Disqualifying factors (that disallow payment)?
	for consultation and for rendering emergency hospital treatment and necessary follow-up medical testing obtained within 90 days of the initial physical examination (Md. Code Regs. 10.12.02.05(B)(1)-(2))	medical testing for up to 90 days after the initial physical examination; and (3) For up to 5 hours of professional time to gather information and evidence as to the alleged sexual abuse, an initial assessment of a victim of alleged child sexual abuse by: (i) A physician; (ii) Qualified hospital health care personnel; (iii) A mental health professional; or (iv) An interdisciplinary team expert in the field of child abuse. (Md. Code Ann., Health-Gen. §15-127(c))		law enforcement jurisdiction; or (ii) A property-held number is assigned to the case in the event that a victim does not wish to file a police report immediately but still seeks to have evidence collected and held. (2) Performed only by a: (a) Physician; or (b) Forensic nurse examiner. (3) Using Maryland State Police victim sexual assault evidence collection kit or a comparable evidence collection kit (Md. Code Regs. 10.12.02.03(B))	
<b>Massachusetts</b>		Reasonable medical care obtained as a result of the crime; Services, supplies and equipment that are medically necessary as a result of the crime. (940 Mass. Code Regs. 14.06(4)).	Awards for compensation shall be reduced by all amounts reimbursed or otherwise compensable by any other source (940 Mass. Code Regs. 14.06(1)). No reimbursement for unrelated	Reports to local law enforcement, via a Provider Sexual Crime Report (PSCR), after the performance of a Forensic Sexual Assault Exam shall constitute a report to law enforcement authorities. (940 Mass. Code Regs. 14.05(1)(d)); IF reported within five days of crime cooperation with law	Unjust enrichment (940 Mass. Code Regs. 14.07(2))

State	How much is paid?	What services are paid for?	What's not paid for?	Other authorization or eligibility requirements?	Disqualifying factors (that disallow payment)?
			conditions or services, or preexisting conditions except to the extent that they were exacerbated by the crime. (940 Mass Code Regs. 14.06 (4)(a)).	enforcement (940 Mass. Code Regs. 14,05(2); claim for compensation must be filed within three years of the date of the crime. (940 Mass. Code Regs. 14.05 (4)	
<b>Michigan</b>	Maximum of \$600: (a) Not more than \$400.00 for the use of an emergency room, clinic, or examination room, and the sexual assault medical forensic examination and related procedures other than services and items described in subdivisions (b) and (c). (b) Not more than \$125.00 for laboratory services. (c) Not more than \$75.00 for dispensing	Examination must include: (a) The collection of a medical history. (b) A general medical examination, including, but not limited to, the use of laboratory services and the dispensing of prescribed pharmaceutical items. (c) Detailed oral, anal, and/or genital examination. (d) Administration of a sexual assault evidence kit and related medical procedures and laboratory and pharmacological services. (Mich. Comp. Laws Ann. §18.355A(1))		Victim's request for a sexual assault medical forensic examination satisfies additional eligibility requirements under the Michigan Crime Victims Compensation Act. (Mich. Comp. Laws Ann. §18.355A(10))	

<b>State</b>	<i>How much is paid?</i>	<i>What services are paid for?</i>	<i>What's not paid for?</i>	<i>Other authorization or eligibility requirements?</i>	<i>Disqualifying factors (that disallow payment)?</i>
	pharmaceutical items related to the sexual assault. (Mich. Comp. Laws Ann. §18.355A(7))				
<b>Minnesota</b>		Full cost of the rape kit examination, associated tests relating to the complainant's STD status, and pregnancy status (Minn. Stat. Ann. § 609.35(a))			
<b>Mississippi</b>		Limited to the customary and usual hospital and physician charges for such services in the area. (Miss. Code Ann. § 99-37-25(1)(a))			
<b>Missouri</b>	Department shall establish maximum reimbursement rates for charges submitted, reflecting reasonable cost of providing forensic exam. (Mo. Ann. Stat. §595.220(1)(2)); \$900 to forensic examinations performed; \$650 for forensic	All costs associated with the facility and the appropriate medical provider fee; lab fees associated with the forensic examination	Claims for procedures and lab fees that are not part of the SAFE exam, except qualified lab fees. (Mo. Code Regs. tit. 11, § 30-12.010)	Claim submitted within 90 days of examination (Mo. Ann. Stat. §595.220(5); Mo. Code Regs. tit. 11, § 30-12.010); for a forensic examination to be eligible for reimbursement the victim must be a Missouri resident or the offense must have occurred in Missouri (Mo. Code Regs. tit. 11, § 30-12.010)	

<b>State</b>	<i>How much is paid?</i>	<i>What services are paid for?</i>	<i>What's not paid for?</i>	<i>Other authorization or eligibility requirements?</i>	<i>Disqualifying factors (that disallow payment)?</i>
	examinations performed in a clinic; \$200 for lab fees associated with forensic examination.				
<b>Montana</b>	Maximum of \$600 for forensic rape examinations on victims who do not choose to report the alleged sexual assault to law enforcement (Mont. Admin. R. 23.15.402(3))	(i) a complete and customary forensic rape examination; (ii) emergency room/facility charges; (iii) medical provider charges; (iv) STD and pregnancy prophylaxis; (v) blood and urine specimens for toxicology testing; (vi) supplies; (vii) laboratory testing; (viii) pharmaceuticals; and (ix) shipping costs. (Mont. Admin. R. 23.15.402(3)(a))	Treatment for injuries (Mont. Code Ann. 46-15-411(3); Mont. Admin. R. 23.15.402(5))	For FREPP, examination must be performed within 72 hours of the alleged sexual assault and victim must choose not to report to law enforcement (MT ADC 23.15.402(1)); must be performed by a physician or by other medical providers who have been trained to gather evidence of a sexual assault in a manner suitable for use in court; and a FREPP-supplied kit must be used (Mont. Admin. R. 23.15.402(2))	
<b>Nebraska</b>		The forensic medical examination and DNA testing (Neb. Rev. St. §13-607).			
<b>Nevada</b>	Maximum of \$1000 (N.R.S. 449.244(2))	Any costs incurred for medical care and physical injuries resulting from the assault (Nev.Rev.Stat. §217.300). Examination of the victim for			

State	How much is paid?	What services are paid for?	What's not paid for?	Other authorization or eligibility requirements?	Disqualifying factors (that disallow payment)?
		purpose of gathering evidence and initial emergency medical care (Nev.Rev.Stat. §449.244).			
<b>New Hampshire</b>		Examination, for an alleged felonious sexual assault, by a physician or hospital for the purpose of gathering information or evidence (N.H. Code Admin. R. Just. 605.12(a)). If it is determined that the victim has been exposed to HIV/AIDS a voucher for prophylactic medication will be given. Each victim will also receive a voucher for forensic medical follow-up care. (N.H. Code Admin. R. Ann. Just. 605.12(e))		A victim who seeks medical treatment is deemed to have reported to law enforcement in compliance with Jus 605.02(c) and be credible evidence that a crime has occurred pursuant to Jus 605.02(d) (N.H. Code Admin. R. Ann. Just. 605.12(g)).	
<b>New Jersey</b>		Services that are directly associated with forensic sexual assault examinations including routine medical screening, medications for prophylaxis of sexually transmitted infections, pregnancy tests, emergency contraception, supplies, equipment and use of space (N.J. Stat. Ann. §52:4B-52(k)).			

<b>State</b>	<i>How much is paid?</i>	<i>What services are paid for?</i>	<i>What's not paid for?</i>	<i>Other authorization or eligibility requirements?</i>	<i>Disqualifying factors (that disallow payment)?</i>
<b>New Mexico</b>	100% of the forensic medical exam per victim per year on bills resulting from rape exams, evidence collection, or child sexual abuse exams. Up to \$150 is paid on medical costs not associated with evidence collection <sup>6</sup> , ( <a href="http://www.nmcsap.org/services.html">http://www.nmcsap.org/services.html</a> )	Physical exam and treatment injuries; expenses related to evidence collection; prophylactic treatment for STI's <sup>7</sup> ; pregnancy test; ambulance service or taxi transportation to medical facility; physician and/or emergency room fee.	The SANE Program may choose, but is not required to reimburse for "on-call" wages; shift differentials; reimbursement for "encounters"; time and expenses of SANEs relating to legal proceedings.	Invoices should be limited to sexual assault exams conducted within 5 days for adolescents/adults and 72 hours for pediatrics, unless otherwise approved. Invoices must be itemized and include only those services eligible for reimbursement. Invoices must also include Verification of Medical Services and Bill Verification forms. Invoices sent for reimbursement do not include patient identifiers.	
<b>New York</b>	Maximum of \$800 (N.Y. Exec. Law §631(13))	At a minimum forensic examiner services, hospital or healthcare facility services related to the exam, and related laboratory tests and pharmaceuticals; Follow-up HIV post-exposure prophylaxis reimbursed according to established office procedure (N.Y. Exec. Law §631(13)); make available appropriate		Report must be made within a reasonable time considering all the circumstances. (N.Y. Exec. Law §631(1)); Health provider must submit completed Claim Form and itemized bill indicating the relevant forensic examination related current procedural	

<sup>6</sup> If the total amount for the medical portion of the bill is greater than \$150, or if other costs have been paid by the patient AND the victim has filed a police report for the crime, the victim may also apply for financial assistance from the Crime Victims Reparation Commission.

<sup>7</sup> For victims over the age of 13, where child sexual abuse is not suspected, only prophylactic treatment for STIs will be covered. For victims under the age of 12, and patients under 17 where child sexual abuse is suspected, cultures, tests and treatment for STIs will be covered.



State	How much is paid?	What services are paid for?	What's not paid for?	Other authorization or eligibility requirements?	Disqualifying factors (that disallow payment)?
		HIV post-exposure prophylaxis, including 7-day starter pack of HIV post-exposure, where there is a significant risk of exposure. (N.Y. Pub. Health Law § 2805-i)		terminology (CPT) codes associated with each service provided to the Office of Victims Services (N.Y. Comp. Codes R. & Regs. tit. 9, §525.12(h)(4)); forensic examination must be performed within 96 hours following the incident (N.Y. Comp. Codes R. & Regs. tit. 9, §525.12(h)(9)); Claim must be submitted within one year of examination. (N.Y. Comp. Codes R. & Regs. tit. 9, §525.12(h)(10))	
<b>North Carolina</b>	Maximum of \$800: \$350 for Physician or SANE Nurse; \$250 for Hospital/Facility Fee; \$200 for Other Expenses Deemed Eligible by the Program (N.C. Gen. Stat. Ann. §143B-480.1(d))	Physician or SANE nurse, hospital/facility fee, and other expenses deemed eligible by the program (N.C. Gen. Stat. Ann. §143B-480.1(d))			

<b>State</b>	<i>How much is paid?</i>	<i>What services are paid for?</i>	<i>What's not paid for?</i>	<i>Other authorization or eligibility requirements?</i>	<i>Disqualifying factors (that disallow payment)?</i>
<b>North Dakota</b>	“\$400 for the forensic medical examination or \$700 for a forensic medical examination with Colposcope. An additional, separate, amount of \$100 is reimbursed for the EMTALA screening.” ( <a href="http://www.ag.nd.gov/Forms/SexAssaultExam/MedPro.pdf">http://www.ag.nd.gov/Forms/SexAssaultExam/MedPro.pdf</a> )	All expenses related to the examination, including the cost of antibiotics and other medications administered as part of the examination ( <a href="http://www.ag.nd.gov/Forms/SexAssaultExam/forms.htm">http://www.ag.nd.gov/Forms/SexAssaultExam/forms.htm</a> )	Additional care that is not for the collection of evidence, such as X-rays, stitches, hospitalization, pain medication or counseling ( <a href="http://www.ag.nd.gov/Forms/SexAssaultExam/forms.htm">http://www.ag.nd.gov/Forms/SexAssaultExam/forms.htm</a> )	The victim may be eligible to have additional costs paid by the North Dakota Crime Victims Compensation Fund if she reports the crime within 72 hours and cooperates with law enforcement ( <a href="http://www.ag.nd.gov/Forms/SexAssaultExam/forms.htm">http://www.ag.nd.gov/Forms/SexAssaultExam/forms.htm</a> ).	
<b>Northern Mariana Islands</b>	No information found.				
<b>Ohio</b>	Flat fee of \$500 (OH Admin. Code 109:7-1-02)	Gathering physical evidence for a possible prosecution, including the cost of any antibiotics administered as part of the examination (OH Rev. Code Ann. §2907.28(A))			
<b>Oklahoma</b>	Maximum of \$500: \$450.00 for a sexual assault examination and \$50.00 for medications which	Examination and medications (Okl. Stat. Ann. tit. 21, §142.20(C))		Application from victim signed by victim and health care provider (Okl. Stat. Ann. tit. 21, §142.20(D); Okla. Admin. Code §185:15-1-3(a); Okla.	

State	How much is paid?	What services are paid for?	What's not paid for?	Other authorization or eligibility requirements?	Disqualifying factors (that disallow payment)?
	are related to the sexual assault and directed and deemed necessary by said health care professional. (Okla. Stat. Ann. tit. 21, §142.20(D))			Admin. Code §185:15-1-4(a)); itemized statement from the medical facility (Okla. Admin. Code §185:15-1-3(b)); receipt for any prescribed medications. (Okla. Admin. Code §185:15-1-3(c))	
<b>Oregon</b>	(a) \$380 for a medical examination plus collection of forensic evidence using the Oregon State Police SAFE Kit; (b) \$175 for a medical examination without collection of forensic evidence using the Oregon State Police SAFE Kit; (c) \$55 for emergency contraception (including urine pregnancy test); (d) \$100 for STD prophylaxis. (2) An additional		Treatment of injuries; DNA testing; HIV testing; laboratory testing of blood for any purpose; and prescriptions filled off-site of the location of a medical examination; and any other service not specifically described in 2003 Oregon Laws, Ch. 789 or OAR 137-084-0001 through 137-084-0030 (Or. Admin. Code R. 137-084-0030(1))	a) A complete medical assessment obtained by the victim of a sexual assault must be no later than 84 hours after the sexual assault. (b) A partial medical assessment obtained by the victim of a sexual assault must be no later than seven days after the sexual assault. (Or. Rev. Stat. §147.397(1))	(a) Services were not provided by an eligible medical services provider. (b) Services were provided to someone other than an eligible victim. (c) Services were not provided in accordance with statutory requirements, including the timeliness requirements for complete medical assessments and partial medical assessments. (d) Services provided were duplicate services for the same incident. (e) Failure of the eligible medical services provider to submit a completed Application Form, submission of incomplete invoice(s) for medical

State	How much is paid?	What services are paid for?	What's not paid for?	Other authorization or eligibility requirements?	Disqualifying factors (that disallow payment)?
	<p>payment of \$75 for medical examination conducted by a SANE certified nurse. (Or. Admin. R. 137-084-0020(1)-(2))</p>				<p>services or submission of the Application Form or invoice(s) for medical services more than one year after date services provided. (f) Insufficient funds in the Fund to cover the services provided. (Or. Admin. R. 137-084-0030(2))</p>
<b>Pennsylvania</b>	<p>Maximum of \$1000 (18 Pa. Cons. Stat. §11.707(b)(1)(ii); 37 Pa. Code §411.41(2))</p>	<p>Forensic rape examination and medications directly related to the sexual offense; expenses for other procedures must be justified and submitted, in writing, as being necessary and directly related to the forensic rape examination. (37 Pa. Code §411.42(b)(3)(i))</p>	<p>Expenses for analyzing collected evidence for DNA or presence of Rohypnol or other similar drugs (37 Pa. Code §411.42(b)(3)(ii)); follow up treatments are not paid for but can be submitted under the standard Victims' Compensation claim form.</p>	<p>Claims shall be filed with OVS no later than 1 year after the date of the crime or discovery of the crime. (37 Pa. Code §411.42(b)(3)(iii))</p>	
<b>Puerto Rico</b>		<p>The Office may grant compensation for damages suffered from the commission of one or more of a select list of crimes including, sexual</p>			

<b>State</b>	<i>How much is paid?</i>	<i>What services are paid for?</i>	<i>What's not paid for?</i>	<i>Other authorization or eligibility requirements?</i>	<i>Disqualifying factors (that disallow payment)?</i>
		assault and lewd act (P.R. Laws Ann. tit. 25, § 981d).			
<b>Rhode Island</b>	No compensation shall be awarded in excess of \$25,000. (R.I. Code §29-1-5:1.07(1)(a)). The cost of repair or replacement of eyeglasses damaged or destroyed as the direct result of a crime shall have a maximum award amount of \$200.00 (R.I. Code §29-1-5:1.07(2)(a)).	Services, supplies and equipment that are medically necessary and reasonably incurred as a direct result of the crime (R.I. Code §29-1-5:1.07(2)(a)).	Compensation shall not be awarded for unrelated conditions or services, or for preexisting conditions except to the extent they were exacerbated by the crime. (R.I. Code §29-1-5:1.07(2)(a)).	Timely filing of claim; reporting to law enforcement; timely report to law enforcement; cooperation with law enforcement. (R.I. Code §29-1-5:1.06) Crimes involving victims of sexual assault may be reported to a Sexual Assault Nurse Examiner or other medical professional for compensation related to the costs of forensic sexual assault exams to satisfy law enforcement reporting requirement (R.I. Code §29-1-5:1.06(2)(e))	No compensation if applicant is attempting to derive rights from a person who was not an eligible victim pursuant to statute or who was injured while serving time in any federal, state, county or city jail, prison, correctional facility or criminal institution (R.I. Code §29-1-5:1.05(2)).
<b>South Carolina</b>		Routine medicological exam following an assault. (S.C. Code Ann. §16-3-1350). Treatment for STDs, and medication for pregnancy prevention if indicated and if desired (S.C. Code Ann. §16-3-1350(B))			

<b>State</b>	<i>How much is paid?</i>	<i>What services are paid for?</i>	<i>What's not paid for?</i>	<i>Other authorization or eligibility requirements?</i>	<i>Disqualifying factors (that disallow payment)?</i>
<b>South Dakota</b>		Services of the licensed or certified health professionals involved in the counseling and the testing of examination, including rape exams and related expenses (S.D. Codified Laws §23A-35B-4; S.D. Admin. R. 67:55:04:13).			
<b>Tennessee</b>	Maximum \$750, which shall constitute full compensation to the health care provider (Tenn. Code Ann. §29-13-118(d))	Examination provided to a victim of a sexually-oriented crime by any health care provider who gathers evidence of a sexual assault in a manner suitable for use in a court of law (Tenn. Code Ann. §29-13-118(a)).		Claim submitted within 1 year of examination, itemized copy of the bill that, at a minimum, sets forth the name of the victim, the date the examination was performed, the amount of the bill, the amount of any payments made on the bill, and the name and address of the health care provider that performed the examination (Tenn. Code Ann. §29-13-118(c))	
<b>Texas</b>	Maximum of \$700 (1 Tex. Admin. Code §61.801(e))	Colposcopy procedure; anoscopy procedure; venipuncture procedure; pregnancy test; drug or alcohol screen, if drugging is suspected as a part of the crime; chlamydia culture, if the victim is not sexually active; gonorrhea testing, if the victim	Treatment of injuries (Tex. Code of Crim. Proc. Ann. Art. §56.06(e))	Within 96 hours of alleged assault; examination at the request of law enforcement for use investigation; performed by physician, SANE (Tex. Code of Crim. Proc. Ann. Art. §56.065(d))	

State	How much is paid?	What services are paid for?	What's not paid for?	Other authorization or eligibility requirements?	Disqualifying factors (that disallow payment)?
		is not sexually active; urine analysis for trichomoniasis of fungus; syphilis test, if the victim is not sexually active; sexual assault examination kit. (1 Tex. Admin. Code §61.804(d))			
<b>Utah</b>	\$300.00 without photo documentation and up to \$600.00 with a photo examination; up to \$350 for rent or use of an examination room or space for the purpose of conducting a sexual assault forensic exam, and 70% of the eligible hospital services and supplies (Utah Admin. Code R. 270-1(R270-1-22)(A))	<p>a. Fees for the collection of evidence, for forensic documentation only, to include:</p> <ul style="list-style-type: none"> <li>i. history;</li> <li>ii. physical; and</li> <li>iii. collection of specimens and wet mount for sperm.</li> </ul> <p>b. Emergency department services to include:</p> <ul style="list-style-type: none"> <li>i. emergency room, clinic room or office room fee;</li> <li>ii. cultures for gonorrhea, chlamydia, trichomonas, and tests for other sexually transmitted disease;</li> <li>iii. serum blood test for pregnancy;</li> <li>iv. morning after pill or high dose oral contraceptives for the prevention of pregnancy; and</li> <li>v. treatment for the prevention of STD up to four weeks. (Utah Admin. Code R. 270-1(R270-1-</li> </ul>		Law enforcement case number or be signed by a law enforcement officer, victim/witness coordinator or medical provider (Utah Admin. Code R. 270-1(R270-1-22)(6)); claim submitted within 1 year of examination (Utah Admin. Code R. 270-1(R270-1-22)(7)); Claim must identify the victim by name, address, date of birth, Social Security number, telephone number, patient number; indicate the claim is for a sexual assault forensic examination; and itemize services and fees for services. (Utah Admin. Code R. 270-1(R270-1-22)(8))	

State	<i>How much is paid?</i>	<i>What services are paid for?</i>	<i>What's not paid for?</i>	<i>Other authorization or eligibility requirements?</i>	<i>Disqualifying factors (that disallow payment)?</i>
		22)(A)(12));			
<b>Vermont</b>	70 percent of the billed charges for these claims, additionally, health care providers are prohibited from billing the victim for any remaining charges. (Vt. Stat. Ann. tit. 32, §1407)	Medical and psychological examinations administered to victims as a result of crime in the state. Costs include mental health counseling, if referred as result of sexual assault examination (Vt. Stat. Ann. tit. 32, §1407)			
<b>Virginia</b>	Funds paid for physical evidence recovery kit collection shall not be offset against the Fund's maximum allowable award. Payments may be subject to negotiated agreements with the provider. (Va. Code Ann. § 19.2-	All medical fees expended in the gathering of evidence through physical evidence recovery kit examinations conducted on victims complaining of sexual assault under (Va. Code Ann. § 19.2-165.1(B)).		Any individual that submits to and completes a physical evidence recovery kit examination shall be considered to have met the reporting and cooperation requirements (Va. Code Ann. § 19.2-368.11:1(F))	



<b>State</b>	<i>How much is paid?</i>	<i>What services are paid for?</i>	<i>What's not paid for?</i>	<i>Other authorization or eligibility requirements?</i>	<i>Disqualifying factors (that disallow payment)?</i>
	368.11:1(F)).				
<b>Virgin Islands</b>		Routine medicological exam following the assault. Treatment for venereal disease, and medication for pregnancy prevention if indicated and if desired (V.I. Code Ann. tit. 34, §206(a - b))		The victim must have filed an incident report with the U.S. Virgin Islands Police Department. (V.I. Code Ann. tit. 34, §206 (a)).	
<b>Washington</b>		Examination of the victim of a sexual assault, when such examination is performed for the purposes of gathering evidence for possible prosecution (Wash. Rev. Code Ann. §7.68.170).	Where there are treatment costs or follow-up treatment, victim must apply personally for compensation (Wash. Admin. Code §296-30-170)		
<b>West Virginia</b>		All reasonable, customary and usual costs of the forensic medical examination (W. VA. Code §61-8B-16(a)(1))	Prophylactic treatment, treatment of injuries, testing for pregnancy and testing for sexually transmitted diseases, and other nonforensic procedures (W. VA. Code §61-8B-16(a)(2))		

<b>State</b>	<i>How much is paid?</i>	<i>What services are paid for?</i>	<i>What's not paid for?</i>	<i>Other authorization or eligibility requirements?</i>	<i>Disqualifying factors (that disallow payment)?</i>
<b>Wisconsin</b>	Where there is no other source of compensation the limit for reimbursement will be the examination costs. If there is another source of compensation, the award will be reduced by that amount (Wis. Stat. Ann. §949.26(1))	Costs of an examination that is done to gather evidence regarding a sex offense, any procedure during that examination process that tests for or prevents a sexually transmitted disease, and any medication provided or prescribed, during that examination process, that prevents or treats a sexually transmitted disease that the person performing the examination or procedure believes could be a consequence of the sex offense (Wis. Stat. Ann. §949.20(3)).	Administrative costs, attorneys' fees or other expenses (Wis. Stat. Ann. §949.20(3)).	An applicant shall submit reports from any physician, physician's assistant, or nurse who treated or examined the victim to gather evidence regarding a sex offense, performed any procedure during that treatment or examination that tests for or prevents STD, or provided or prescribed any medication to prevent or treat STD. (Wis. Stat. Ann. §949.24(3)); Claim must be submitted within 1 year; waivable in interest of justice (Wis. Stat. Ann. §949.28(1))	A victim may not receive an award to the extent that they have received compensation from any other source (Wis. Stat. Ann. §949.28(3)).
<b>Wyoming</b>		The cost of gathering evidence; any other examinations authorized by law enforcement to aid in the investigation and prosecution of sexual assault. (Wyo. Stat. Ann. §6-2-309(g))			

## PAYMENT METHOD

State	<i>Direct payment to hospital</i>	<i>Reimbursement</i>	<i>Insurance billing</i>	<i>Restitution from guilty offender</i>
<b>Alabama</b>	"Payment shall be submitted directly to the service provider unless payment has been made by the victim in which case the victim shall be reimbursed." (Ala. Admin. Code r. 262-X-11-.01(2)(c))	"Payment shall be submitted directly to the service provider unless payment has been made by the victim in which case the victim shall be reimbursed." (Ala. Admin. Code r. 262-X-11-.01(2)(c))		
<b>Alaska</b>			A law enforcement agency ... or other entity may not require a victim of sexual assault to pay, directly or indirectly ... through health insurance or other means for the cost of examination (Alaska Stat. §18.68.040).	
<b>Arizona</b>	No information found.			
<b>Arkansas</b>	Reimbursement for the medical-legal examinations shall be available to the medical facility or licensed health care provider (Ark. Code Ann. §12-12-402(d)); A medical facility or licensed health care provider shall submit a sexual assault reimbursement form, an itemized statement directly			

<b>State</b>	<i>Direct payment to hospital</i>	<i>Reimbursement</i>	<i>Insurance billing</i>	<i>Restitution from guilty offender</i>
	to the board for payment (Ark. Code Ann. §12-12-403(c)(1))			
<b>California</b>				Yes (Cal.Penal Code §1203.1H(b))
<b>Colorado</b>	No information found.			
<b>Connecticut</b>		Hospital submits statement to the Office of Victim Services for examination related expenses.		
<b>Delaware</b>	Medical expenses shall be paid on behalf of the victim to a hospital or other licensed health care facility or provider at a rate set by VCAP. (Del. Code Regs. §301-28.0(28.1))	If insurance is unavailable, or does not cover the full costs of the forensic medical examination, the service provider may seek reimbursement from the Compensation Fund. (Del. Code Regs. §9023(c))	Any hospital or health care professional performing a forensic medical examination shall seek reimbursement for the examination from the patient's insurance carrier, including Medicaid and Medicare, if available. (Del. Code Regs. §9023(c))	Convicted defendants assessed additional fine to reimburse the Victim Compensation Fund for forensic medical examination payments: \$50 for each misdemeanor level count for which they are convicted and \$100 for each felony level count for which they are convicted (Del. Code Regs. §9023(e))
<b>District of Columbia</b>				Defendants may be required to pay restitution or to pay into the Crime Victim's Compensation Fund, where the victim has already been reimbursed (D.C. Code 4-507(f)).

<b>State</b>	<i>Direct payment to hospital</i>	<i>Reimbursement</i>	<i>Insurance billing</i>	<i>Restitution from guilty offender</i>
<b>Florida</b>	Payment may be made to a medical provider (Fla. Stat. Ann. §960.28(2))		A victim shall not be required to file a claim for the initial physical examination with a health or disability insurance carrier (Fla. Admin. Code Ann. r. 2A-3.002(8)).	Restitution to the Crimes Compensation Trust Fund in an amount equal to the compensation paid to the medical provider by the Crime Victims' Services Office for the cost of the initial forensic physical examination (Fla. Stat. Ann. §960.28(5))
<b>Georgia</b>			The fund shall be responsible for payment of such cost notwithstanding whether the person receiving such examination has health insurance or any other source of health care coverage (Ga. Code Ann. §17-15-15).	
<b>Guam</b>	The Department of Public Health and Social Services with the assistance of the Sexual Abuse and Rape Crisis Center shall provide services to victims of criminal sexual conduct. (Guam Code Ann. tit. 8, § 120.60(b))			
<b>Hawaii</b>	No information found.			
<b>Idaho</b>	The commission may order payment of reasonable expenses actually incurred by the claimant for reasonable services by a		Payment for the costs of forensic and medical examinations of alleged victims of sexual assault performed for the purposes of gathering evidence will be paid	

State	<i>Direct payment to hospital</i>	<i>Reimbursement</i>	<i>Insurance billing</i>	<i>Restitution from guilty offender</i>
	physician or surgeon, reasonable hospital services ... for the injuries suffered due to criminally injurious conduct. (Idaho Code Ann. §72-1019(2)).		after collections from any third party who has liability (Idaho Code Ann. §72-1019(2)).	
<b>Illinois</b>	The hospital is entitled to be reimbursed for its billed charges in providing services to victims of sexual assault, who may not be billed directly (410 Ill. Comp. Stat. 70/7(a)). Health care professionals that provide follow-up services, including pharmacy, to victims may receive payment from the Illinois Sexual Assault Emergency Treatment Program (410 Ill. Comp. Stat. 70/7(c)). The hospital's outpatient billing department shall submit the required documentation. (Ill. Admin. Code tit. 89, §148.510).			
<b>Indiana</b>	The victim services division of the Indiana criminal justice institute shall reimburse a hospital for its costs in providing these services and shall adopt rules and procedures to			

<b>State</b>	<i>Direct payment to hospital</i>	<i>Reimbursement</i>	<i>Insurance billing</i>	<i>Restitution from guilty offender</i>
	provide for reasonable reimbursement (Ind. Code §5-2-6.1-39(a)). Payment shall be made to health care provider, with conditions (IC 16-21-8-5; 203 Ind. Admin. Code 1-2-2)			
<b>Iowa</b>	Reimbursement to medical provider (Iowa Admin. Code r. 61-9.82(915)(9.82)(1))			To the crime victim assistance program for the cost paid by the department for a sexual abuse examination rendered to the victim of that crime (Iowa Admin. Code r. 61-9.85(915))
<b>Kansas</b>	Examination fees, including the cost of the sexual assault evidence collection kit shall be charged to and paid by the county where the alleged offense was committed. (Kans. Stat. Ann. 65-448(c))			County shall be reimbursed by defendant as court costs. (Kans. Stat. Ann. 65-448(c))
<b>Kentucky</b>	Reimbursement to qualified medical professional (Ky. Rev. Stat. Ann. §216B.400(8)(b))			
<b>Louisiana</b>		Out-of-pocket paid monies will be reimbursed to the victim prior to applying this payment schedule (La. Admin. Code tit. 22, § 503(g)(5)).	The board will pay 70 percent of all outstanding charges after any third-party payment sources up to the statutory limits (La. Admin. Code tit. 22, § 503(g)(3)).	

State	<i>Direct payment to hospital</i>	<i>Reimbursement</i>	<i>Insurance billing</i>	<i>Restitution from guilty offender</i>
<b>Maine</b>	Hospital or health care provider must submit a bill to the Victims' Compensation Board directly for payment of the forensic examinations (Maine Revised Stat. Ann. tit. 5, §3360-M(3); Maine Revised Stat. Ann. tit. 24, §2986(2))	A victim may seek reimbursement from the Victims' Compensation Fund for expenses other than the forensic examination. (Maine Revised Stat. Ann. tit. 5, §3360-M(4); 26-550 Me. Code Ann. R. §3(1))	The licensed hospital or licensed health care practitioner may bill the patient or patient's insurer for services outside the scope of the forensic examination. (26-550 Me. Code Ann. R. § 3(1))	
<b>Maryland</b>	The physician or hospital is entitled to be paid by the Department for the costs of providing the services (Md. Code Ann., Health – Gen. § 15-127(b)).	Hospital is entitled to be paid by the Department for the costs of providing the services. (MD Code Ann., Health-Gen., § 15-127(b)); Procedure (Md. Code Regs. 10.12.02.05(F))	A victim's private insurance may not be billed in the case of an alleged rape or sexual assault for any difference between charges and Department Reimbursement. (Md. Code Regs. 10.12.02.05(A)(2)).	
<b>Massachusetts</b>	The Division may authorize an award for outstanding medical expenses payable directly to the medical provider, but only if the provider has fully cooperated with the Division in the investigation of the claim. (940 Mass. Code Regs. 14.06(4)(f))	A victim shall be eligible for compensation for reasonable medical care obtained as a result of the crime. Claimant must demonstrate an out-of-pocket loss or legal liability for payment of compensable medical expenses which are not reimbursed or reimbursable by any other source ((940mass. Code Regs. 14.06(4)(c))).	Victim must bill insurance, exhaust all other sources of public reimbursement, and cooperate with division investigation of claim before seeking victims compensation claim (940 Mass. Code Regs. 14.06(4)(c))	
<b>Michigan</b>	To health care provider, with conditions (Mich. Comp. Laws Ann. §18.355a)		If victim gives consent, health care provider may bill victim's insurance for compensation (Mich. Comp. Laws Ann. §18.355A(3)(a))	



<b>State</b>	<i>Direct payment to hospital</i>	<i>Reimbursement</i>	<i>Insurance billing</i>	<i>Restitution from guilty offender</i>
<b>Minnesota</b>			A county may seek reimbursement from the victim's insurer only if authorized by the victim (Minn. Stat. Ann. §609.35(b))	
<b>Mississippi</b>	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 (Miss. Code Ann. § 99-37-25(1)(a))			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 STDs (Miss. Code Ann. § 99-37-25(2))
<b>Missouri</b>	The department of public safety shall make payments to appropriate medical providers to cover the reasonable charges of the forensic examination of persons who may be a victim of a sexual offense (Mo. Ann. Stat. §595.220(1); Mo. Code Regs. tit. 11, § 30-12.010)			
<b>Montana</b>	The medical provider may be paid, after the examination has been conducted, by FREPP, by submitting all billing	If FREPP has provided coverage for a forensic rape examination and the victim later reports the offense to law enforcement, in accordance with 46-15-411, MCA,		

<b>State</b>	<i>Direct payment to hospital</i>	<i>Reimbursement</i>	<i>Insurance billing</i>	<i>Restitution from guilty offender</i>
	paperwork to the Office of Victim Services (Mont. Admin. R. 23.15.404).	law enforcement must reimburse FREPP for the cost of the examination (Mont. Admin. R. 23.15.406).		
<b>Nebraska</b>	No information found.			
<b>Nevada</b>	No information found.			
<b>New Hampshire</b>	Physician or hospital shall be reimbursed for the cost of such examination by the department of justice to the extent such costs are not the responsibility of a third party under a health insurance policy or similar third party obligation (N.H. Rev. Stat. § 21-M:8-C)		The health care provider shall first seek payment for such services or examination from the patient's health care insurer if the victim has health insurance (N.H. Code Admin. R. Ann. Just. 605.12(a)); Department of Justice (Victim Compensation) shall either reimburse the victim for insurance deductible or co-payment made or pay such deductible or co-payment directly. (N.H. Code Admin. R. Ann. Just. 605.12(c))	
<b>New Jersey</b>				A person convicted of a sex offense shall be assessed a penalty of \$800 for each such offense, to be forwarded to the Department of the Treasury to be deposited in the "Statewide Sexual Assault Nurse Examiner Program Fund" (N.J. Stat. Ann. §2C:43-3.6)

State	<i>Direct payment to hospital</i>	<i>Reimbursement</i>	<i>Insurance billing</i>	<i>Restitution from guilty offender</i>
<b>New Mexico</b>	The hospital or clinic should submit billing directly to New Mexico Coalition of Sexual Assault Programs (Sexual Assault Evidence Kit Instructions, <i>Exam Payment</i> , p. 2, ).	The patient may apply for additional funding to cover the medical treatment from Crime Victims Reparation Commission (841-9432) if a police report is filed (Sexual Assault Evidence Kit Instructions, <i>Exam Payment</i> , p. 2).		
<b>New York</b>	Health care provider shall bill the office directly for such services, unless the sexual assault survivor assigns his or her private insurance benefits for the forensic examination (N.Y. Cop. Codes R & Regs. tit. 9, §525.12(h)(2))		A sexual assault survivor may voluntarily assign any private insurance benefits to which she or he is entitled for the healthcare forensic examination, in which case the hospital or healthcare provider may not charge the office... such sexual assault survivor shall be advised orally and in writing that he or she may decline to provide such information regarding private health insurance benefits (N.Y. Exec. Law § 631(13))	
<b>North Carolina</b>	The Program shall make payment directly to the medical facility or medical professional (N.C. Gen. Stat. Ann. § 143B-480.1(e))		A medical facility or medical professional that performs a forensic medical examination shall not bill victims, their personal insurance, Medicaid, Medicare, or any other collateral source for the examination. (N.C. Gen. Stat. Ann. §143B-480.1(c))	

<b>State</b>	<i>Direct payment to hospital</i>	<i>Reimbursement</i>	<i>Insurance billing</i>	<i>Restitution from guilty offender</i>
<b>North Dakota</b>	Health care provider reimbursed (N.D. Cent. Code, §12.1-34-07(3))	The victim is responsible for the costs of medical not for the collection of evidence but may be eligible to have those additional costs paid by the ND Crime Victims Compensation Fund, if she reports within 72 hours and cooperates with law enforcement ( <a href="http://www.ag.nd.gov/Forms/SexAssaultExam/forms.htm">http://www.ag.nd.gov/Forms/SexAssaultExam/forms.htm</a> )		
<b>Northern Mariana Islands</b>	No information found.			
<b>Ohio</b>	The hospital or emergency facility shall submit requests for payment to the attorney general on a monthly basis. (Ohio Rev. Code Ann. §2907.28(A)(2))		Health care provider may not bill victim's insurance. (Ohio Rev. Code Ann. §2907.28(B))	
<b>Oklahoma</b>	To medical facility upon victim's application (Okla. Stat. Ann. tit. 21, §142.20(C))		Victim is not required to submit insurance information (Okla. Admin. Code §185:15-1-6(b)); If victim submits insurance information, reimbursement goes to Sexual Assault Examination Fund (Okla. Admin. Code §185:15-1-6(c))	

<b>State</b>	<i>Direct payment to hospital</i>	<i>Reimbursement</i>	<i>Insurance billing</i>	<i>Restitution from guilty offender</i>
<b>Oregon</b>	Once victim has submitted proper forms, the medical provider should submit their bill directly to the department (Or. Rev. Stat. §147.397(4); Or. Admin. R. 137-084-0010(2))		May not bill insurance unless Department has insufficient funds to pay (Or. Rev. Stat. §147.397(4); Or. Admin. R. 137-084-0020(4))	
<b>Pennsylvania</b>	OVS will reimburse a maximum of \$1,000 to a hospital or other licensed health care provider, or both, for a forensic rape examination and medications directly related to the sexual offense. (37 Pa. Code §411.42(b)(3)(i)).	OVS will reimburse a direct victim who is erroneously billed and subsequently pays the cost of the forensic rape examination or medications directly related to the sexual offense. (37 Pa. Code §411.42(b)(3)(iv)).	Victim may request that insurance not be billed (18 Pa. Cons. Stat. §11.707(h)(1))	Upon conviction, offender may be required to pay restitution for injuries to person or property. (18 Pa. Cons. Stat. § 1106)
<b>Puerto Rico</b>	No information found.			
<b>Rhode Island</b>	Where the medical provider requires pre-authorization for payments for medical treatment, the administrator may authorize payment for those medical services upon a showing of certain circumstances (R.I. Code §29-1-5:1.07(2)(a)).	A victim shall be eligible for compensation for reasonable medical care as a result of the crime. They must follow the application requirements set forth in statute by demonstrating an actual out-of-pocket loss or legal liability for payment of compensable medical expenses and must have exhausted all other sources of public reimbursement. (R.I. Code §29-1-5:1.07(2)).	An applicant seeking reimbursement must show that they have exhausted all sources of reimbursement, the victim, if they are covered by a private insurer, must submit all bills for payment to the insurance provider. (R.I. Code §29-1-5:1.07(2)(b)(1)-(2)).	
<b>South Carolina</b>	The South Carolina Crime Victim's Compensation Fund			

State	<i>Direct payment to hospital</i>	<i>Reimbursement</i>	<i>Insurance billing</i>	<i>Restitution from guilty offender</i>
	must reimburse eligible health care facilities directly (S.C. Code Ann. §16-3-1350(C)).			
<b>South Dakota</b>			Bills for rape exams and related expenses [other than examinations provided under the provisions of S.D. Codified Laws §22-22-6] must be submitted to collateral sources, including health insurance, before payment may be made by Crime Victims' Compensation. (S.D. Admin. R. 67:55:04:13)	Defendant reimburses county if convicted (S.D. Codified Laws § 22-22-26)
<b>Tennessee</b>	The health care provider must submit a claim for payment to the compensation fund for their payment (Tenn. Code Ann. § 29-13-118(c)-(d)).			
<b>Texas</b>	The Department of Public Safety shall pay the appropriate fees, as set by the Attorney General Rule for the forensic portion of the medical examination (Tex. Code of Crim. Proc. Ann. art. §56.065(d)).	The attorney general shall reimburse the department for fees paid under this subsection. (Tex. Code of Crim. Proc. Ann. art. §56.065(d)). The attorney general may also reimburse law enforcement for reasonable costs associated with a forensic sexual assault exam (1 Tex. Admin. Code §61.801(a)).		

<b>State</b>	<i>Direct payment to hospital</i>	<i>Reimbursement</i>	<i>Insurance billing</i>	<i>Restitution from guilty offender</i>
<b>Utah</b>	The agency may reimburse any licensed health care facility that provides services for sexual assault forensic examinations. (Utah Admin. Code r. 270-1(R270-1-22)(A)(4))		All collateral sources that are available for payment of the sexual assault forensic examination shall be considered before CVR Trust Fund monies are used (Utah Admin. Code r.270-1(R270-1-22)(9))	Restitution for the cost of the sexual assault forensic examination may be pursued by the CVR office. (Utah Admin. Code r. 270-1(R270-1-22)(11))
<b>Vermont</b>	The fund shall reimburse health care facilities and health care providers located in Vermont. (Vt. Stat. Ann. tit. 32, § 1407).			
<b>Virginia</b>	Healthcare providers that complete physical evidence recovery kit examinations may bill the Fund directly (Va. Code Ann. § 19.2-368.11:1(F))		Any claim shall be reduced by the amount of any payments received or to be received...from any other public or private source (Va. Code Ann. § 19.2-368.11:1(G))	Any claim shall be reduced by the amount of any payments received or to be received as a result of the injury from or on behalf of the person who committed the crime (Va. Code Ann. § 19.2-368.11:1(G)); Upon conviction of the defendant in any case requiring the payment of medical fees, the court shall order that the defendant reimburse the Commonwealth for payment of such fees. (Va. Code Ann. § 19.2-165.1(C))
<b>Virgin Islands</b>	To licensed health care facility (V.I. Code Ann. tit. 34, § 206(c))			

State	<i>Direct payment to hospital</i>	<i>Reimbursement</i>	<i>Insurance billing</i>	<i>Restitution from guilty offender</i>
<b>Washington</b>	The costs of a sexual assault examination must be billed to the crime victims compensation program (Wash. Admin. Code §296-30-170).			
<b>West Virginia</b>	West Virginia prosecuting attorneys institute shall pay to a licensed medical facility from the forensic medical examination fund the cost of the forensic medical examination (W. Va. Code, § 61-8B-16(a))	Insurance provider may seek reimbursement from victim's insurer for non forensic procedures (W. VA. Code § 61-8B-16(a)(2)).	No licensed medical facility may collect the costs of a forensic medical examination from the alleged victim of a violation of this article or from the alleged victim's insurance coverage, if any. (W. VA. Code § 61-8B-16(b)).	
<b>Wisconsin</b>	Department shall reimburse the health care provider who conducts an examination to gather evidence regarding a sex offense (Wis. Stat. Ann. §949.26(1)); Upon application (Wis. Stat. Ann. §949.24)		A health care provider seeking an award may not seek payment for any examination costs from insurance or another available source of payment unless the victim or any guardian of the victim authorizes the health care provider to seek payment (Wis. Stat. Ann. §949.26(2)(b)).	



<b>State</b>	<i>Direct payment to hospital</i>	<i>Reimbursement</i>	<i>Insurance billing</i>	<i>Restitution from guilty offender</i>
<b>Wyoming</b>	Costs of any examination relating to the investigation or prosecution of a sexual assault shall be billed to and paid by the investigating law enforcement agency. (Wyo. Stat. Ann. §6-2-309(g)).			A convicted offender of a sexual assault shall be ordered to reimburse any costs incurred as a direct result of the sexual assault. (Wyo. Stat. Ann. §6-2-309(j))

## OTHER PROVISIONS

<b>State</b>	<i>Law enforcement report requirements</i>	<i>Evidence retention</i>	<i>Sexual Assault/Forensic Examination Fund?</i>
<b>Alabama</b>	The victim is not required to report the sexual assault to law enforcement in order to be eligible pursuant to this section. (Ala. Admin. Code r. 262-X-11-.02(2))		
<b>Alaska</b>		Law enforcement shall preserve evidence that is obtained in relation to an investigation or prosecution of a crime is preserved for the period of time that the crime remains unsolved or 50 years, whichever ends first, (Alaska Stat. §12.36.200(a)(1)); provisions for impracticability of preservation, inventory of preserved material, destruction of material, and civil liability. (Alaska Stat. §12.36.200(b)-(h))	
<b>American Samoa</b>	No information found.		
<b>Arizona</b>		Appropriate governmental entity shall retain all identified biological evidence that is secured in connection with a felony sexual offense or homicide for the period of time that a person who was convicted of a felony sexual offense or homicide remains incarcerated for that offense or until the completion of the person's supervised release; or a cold case, fifty-five years or until a person is convicted of the crime and remains incarcerated or under supervised release for that offense (Ariz. Rev. Stat. §13-4221(A)(1-2)); agency must obtain approval before destroying any evidence (Ariz. Rev. Stat. §13-4221(D)); agency maintains discretion concerning the conditions under which biological evidence is retained, preserved or transferred among different entities (Ariz. Rev. Stat. §13-4221(F))	

· Defined as a requirement that the victim report her assault to law enforcement in order to receive payment for forensic exam, not including requirements that the victim pursue prosecution or cooperate with investigation.

State	Law enforcement report requirements	Evidence retention	Sexual Assault/Forensic Examination Fund?
<b>Arkansas</b>	All victims shall be exempted from the payment of expenses incurred as a result of receiving a medical-legal examination provided assault must be reported to a law enforcement agency and a medico-legal examination conducted within 72 hours of attack, with exception. (Ark. Code R. §143.00.1-20(2)(a)) But <i>see also</i> Ark. Code Ann. §12-12-402, providing that victim decides whether or not to report to law enforcement and that no medical facility or licensed health care provider may require an adult victim to report the incident in order to receive medical treatment.	Evidence will be collected only with the permission of the victim. However, permission shall not be required when the victim is unconscious, mentally incapable of consent, or intoxicated (A.C.A. § 12-12-402(b)(1)(C)(i-ii))	
<b>California</b>	Law enforcement authorities shall be notified. (Cal. Penal Code §13823.11(a))	Preservation and disposition of physical evidence shall be done in accordance with the law and the evidence shall be turned over to the proper law enforcement agency. Additionally, the evidence shall be preserved with documentation of the chain of custody and shall be properly sealed (Cal. Penal Code § 13823.11(h)).	
<b>Colorado</b>	When a licensee performs a forensic medical examination that includes the collection of evidence at the request of a victim of sexual assault, not in connection with a referring or requesting law enforcement agency, they should report to the jurisdiction where the crime occurred or, if known, to local law enforcement (Col. Rev. Stat. Ann. § 12-36-135(1)(b)).	If the medical facility does not know where the crime occurred, the facility shall contact its local law enforcement agency regarding preservation of the evidence. (Col. Rev. Stat. Ann. § 12-36-135(1)(b)).	
<b>Connecticut</b>	Law enforcement does not need to be notified of the sexual assault in order for an exam and evidence	The agency that receives such evidence shall hold that evidence for sixty days after such collection, except that, if the victim reports the sexual assault to the police, the evidence shall be analyzed upon request of the	There is a nonlapsing account within the

State	Law enforcement report requirements	Evidence retention	Sexual Assault/Forensic Examination Fund?
	collection to be performed or paid for. (Conn. Gen. Stat. Ann. §19A-112A(e)(1)). The health care facility shall contact a police department for transfer of the evidence. (Conn. Gen. Stat. Ann. §19A-112A(d)).	police department that transferred the evidence to such agency and held by the agency or police department until the conclusion of any criminal proceedings (Conn. Gen. Stat. Ann. §19A-112A(d))	General Fund, established for sexual assault victims (Conn. Gen. Stat. Ann. § 19a-112d).
<b>Delaware</b>	No information found.		
<b>District of Columbia</b>	No information found.		
<b>Florida</b>	No information found.		
<b>Georgia</b>	No information found.		
<b>Guam</b>	No Information found.		
<b>Hawaii</b>	No information found.		
<b>Idaho</b>	No information found.		
<b>Illinois</b>		Sexual assault evidence collection program shall consist of (1) distribution of sexual assault evidence collection kits (2) collection of the evidence kits (3) analysis of the collected evidence conducted laboratory tests, (4) maintaining the chain of custody and safekeeping of the evidence for use in a legal proceeding, and (5) DNA analysis of collected evidence (410 Ill. Comp. Stat 70/6.4(a))	Illinois Sexual Assault Emergency Treatment Program ( <i>see generally</i> , 410 Ill. Comp. Stat. 70/7)
<b>Indiana</b>	Provision of services may not be dependent on victim reporting to or cooperating with law enforcement. (Ind. Code § 16-21-8-1) <sup>8</sup>	(a) Law enforcement shall obtain the sample within forty-eight (48) hours after receiving a provider's notification; and transport the sample to secured storage. (b) Law enforcement shall keep the sample in secured storage until the earlier of the following: (1) At least one (1) year after the date the sample is placed in secured	

<sup>8</sup> The Indiana code conflicts with the Indiana Administrative Code, as they are written now. The Indiana code was amended in 2007 and went into effect in 2009 prohibiting provision of services to be dependent on report to or cooperating with law enforcement. IND. CODE § 16-21-8-1(1)(a) (2012). However, 203 IND. ADMIN. CODE 1-2-1 still requires that the victim report to the police. The statute is controlling law and victims are not required to report to law enforcement following a sexual assault. The Administrative Code is in the process of revision.

<b>State</b>	<i>Law enforcement report requirements</i>	<i>Evidence retention</i>	<i>Sexual Assault/Forensic Examination Fund?</i>
		storage. (2) The victim reports the sex crime to law enforcement and the sample is transported to the crime lab for investigation and use as evidence. (c) The division shall notify the victim that the victim's sample will be removed from secured storage and may be destroyed if the victim does not report the sex crime to law enforcement on or before the date described in subsection (b)(1). (Ind. Code 16-21-8-10)	
<b>Iowa</b>			Sexual abuse examination program (Iowa Admin. Code r. 61-9.80(915))
<b>Kansas</b>	If an examination has taken place solely upon the request of the victim, the medical care facility shall not notify any law enforcement agency without the written consent of the victim, unless otherwise required by law. (Kan. Stat. Ann. §65-448(a))	Kits not turned over to law enforcement are sealed and kept for five years. After five years, such kits shall be destroyed by the Kansas bureau of investigation. (Kan. Stat. Ann. §65-448(b))	
<b>Kentucky</b>	No victim shall be denied an examination because the victim chooses not to file a police report (Ky. Rev. Stat. Ann. §216B.400(10)(a))	At least ninety (90) days (Ky. Rev. Stat. Ann. §216B.400(10)(b)(3)); samples collected during exams where the victim chose not to report immediately or file a report within ninety (90) days after collection may be destroyed. (Ky. Rev. Stat. Ann. §216B.400(10)(b)(4))	Sexual assault victim assistance fund (Ky. Rev. Stat. Ann. §346.200)
<b>Louisiana</b>	No hospital may require the person to report the incident in order to receive medical attention. (La. Rev. Stat. Ann. §40:2109.1(A)(1)); 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. (La. Rev. Stat. Ann. §40:2109.1(A)(2))	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. Any evidence collected shall 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	

<b>State</b>	<i>Law enforcement report requirements</i>	<i>Evidence retention</i>	<i>Sexual Assault/Forensic Examination Fund?</i>
		enforcement agency. (La. Rev. Stat. Ann. §40:2109.1(A)(2)); 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 homicide, rape, and armed robbery. (La. Rev. Stat. Ann. §15:621(A))	
<b>Maine</b>		Kit stored by law enforcement agency for at least 90 days; if victim does not report, kit stored under tracking number only. (Maine Rev. Stat. Ann. tit. 24, §2986(3); Maine Rev. Stat. Ann. tit. 25, §3821)	
<b>Maryland</b>		A physician or nurse examiner shall use the Maryland State Police victim sexual assault evidence collection kit to conduct the examination or a comparable collection kit. The physician or forensic nurse examiner shall submit the evidence collected to the appropriate law enforcement jurisdiction. (Md. Code Regs. 10.12.02.03(b)-(d)).	
<b>Massachusetts</b>	A claimant must demonstrate that the crime for which he or she seeks compensation was reported to police or other law enforcement authorities, or to an agency or entity obligated by law to report complaints of criminal misconduct to law enforcement authorities. Reports to local law enforcement following a Forensic Sexual Assault exam constitute a report, under this statute (940 Mass. Code Regs. 14.05(1)(d)).	Evidence in sexual assault exam kit is preserved for at least six months upon the written request of the victim. (Mass. Gen. Laws. Ann. Ch. 41 §97B)	
<b>Michigan</b>	A victim of sexual assault shall not be required to participate in the criminal justice system or cooperate with law enforcement as a condition of being administered a sexual assault medical forensic examination. However, for payments authorized, the victim's request for a sexual assault medical		Crime Victim Compensation (Mich. Comp. Laws Ann. §18.355A)

State	Law enforcement report requirements	Evidence retention	Sexual Assault/Forensic Examination Fund?
	forensic examination satisfies the requirements for prompt law enforcement reporting. (Mich. Comp. Laws Ann. §18.355A(10))		
<b>Minnesota</b>	The applicability of this section does not depend upon whether the victim reports the offense to law enforcement. (Minn. Stat. Ann. §609.35(c))		
<b>Mississippi</b>	Payment for forensic exam may be made whether or not the victim cooperates in the case. <sup>9</sup> (Miss. Code Ann. § 99-37-25(1))	The state shall preserve all biological evidence for the period of time the crime remains unsolved or for the period of time that the person convicted remains in custody; the state shall not destroy evidence if one or more co-defendants is still in custody; state shall maintain evidence in the amount and manner sufficient to develop a DNA profile. (Miss. Code Ann. § 99-49-1)	The money used to pay for the cost of forensic examinations comes from the Victim Compensation Fund and is allowed by the Mississippi Victim Compensation Act. (Miss. Code Ann. § 99-41-29)
<b>Missouri</b>			Yes, Sexual Assault Forensic Examination Program (Mo. Code Regs. tit. 11, § 30-12.010)
<b>Montana</b>	FREPP covers the costs of providing sexual assault forensic examinations for victims of an alleged incident of sexual	(1) FREPP will maintain a database of all forensic rape examination kits received. (2) FREPP will store forensic rape examination kits for a minimum of 60 days.	Forensic rape examination payment program (FREPP) (Mont.

<sup>9</sup> In 2007, legislation was passed that amended MISS. CODE ANN. § 99-72-25(1) removing language that stated if the victim refused to cooperate with the investigation and prosecution of the case, the Victim Compensation Division may seek reimbursement from the victim. MISS. CODE ANN. § 99-72-25 (2011) amended by H.B. No. 1522, 2007 Reg. Sess. (Miss. 2007), 2007 miss. Laws Ch. 587.

State	Law enforcement report requirements	Evidence retention		Sexual Assault/Forensic Examination Fund?
	intercourse without consent, sexual assault, or incest who choose not to report the alleged incident to law enforcement (Mont. Admin. R. 23.15.401(1))	(3) FREPP will maintain the confidentiality of the victim's identity and the forensic rape examination.	(4) In the event that a victim chooses to report the alleged sexual assault to law enforcement and the forensic rape examination kit has not been destroyed, FREPP will provide the kit, upon request, to law enforcement. (Mont. Admin. R. 23.15.405)	Admin. R. 23.15.401)
<b>Nebraska</b>	No information found.			
<b>Nevada</b>	No information found.			
<b>New Hampshire</b>	Victim shall choose whether to report the crime within 60 days of the evidence collection. (N.H. Code Amin. R. Ann. Just. 605.12(d))	The evidence collected shall not be examined forensically unless the victim also reports the crime to law enforcement. The victim may initially choose to have such evidence collection done anonymously, but the victim shall choose whether to report the crime within 60 days of the evidence collection. If the victim does not report within the 60-day period, the evidence shall be destroyed. (N.H. Code Amin. R. Ann. Just. 605.12(d))		
<b>New Jersey</b>		Evidence collected will be packaged and protected in a manner to ensure the integrity of specimens and the appropriate chain of custody of the evidence (Attorney General Standards for Providing Services to Victims of Sexual Assault, 2nd Ed., Standard 3). Sexual Assault Forensic Kits will be held for a minimum of 90 days for the victim to decide to release to law enforcement. If they choose not to report they must determine if they want their clothing and other items, collected during examination, returned. (Attorney General Standards for Providing Services to Victims of Sexual Assault, 2nd Ed., Standard 4).		
<b>New Mexico</b>	There is no requirement for criminal prosecution where a victim receives services under the Sexual Crimes Prosecution and Treatment Act. (N.M. Stat. Ann. § 29-11-5)	Law enforcement officers will be trained, under the Sexual Crimes and Prosecution Act, in the proper treatment of victims of sexual crimes and collection of evidence. (N.M. Stat. Ann. § 29-11-5) <sup>10</sup>	Sexual Crimes Prosecution and Treatment Fund (N.M. Stat. Ann. § 29-11-4)	

<sup>10</sup> See also Sexual Assault Evidence Kit Instructions, <http://ncdsv.org/images/SexAssaultEvidenceKitInstructions.pdf>.



<b>State</b>	<i>Law enforcement report requirements</i>	<i>Evidence retention</i>	<i>Sexual Assault/Forensic Examination Fund?</i>
<b>New York</b>	Reporting is required under state law; however, reporting to any medical facility that provides forensic physical examination for victims of rape and sexual assault will qualify as reporting (N.Y. Exec. Law § 631(1)(c)).	Minimum of 30 days unless (a) such evidence is not privileged and the police request its surrender before that time, which request shall be complied with; or (b) such evidence is privileged and (i) the alleged sexual offense victim nevertheless gives permission to turn such privileged evidence over to the police before that time, or (ii) the alleged sexual offense victim signs a statement directing the hospital to not collect and keep such privileged evidence, which direction shall be complied with. Where appropriate such items must be refrigerated and the clothes and swabs must be dried, stored in paper bags and labeled. Each item of evidence shall be marked and logged with a code number corresponding to the patient's medical record. (N.Y. Pub. Health Law §2805-i(2))	
<b>North Carolina</b>			Assistance Program for Victims of Rape and Sex Offenses (N.C. Gen. Stat. Ann. §143B-480.1)
<b>North Dakota</b>	No information found.		
<b>Northern Mariana Islands</b>	No information found.		
<b>Ohio</b>	No information found.		
<b>Oklahoma</b>		The physician or qualified registered nurse is responsible for collecting the evidence in a professional manner and preserving the evidence for shipment to a law enforcement forensic laboratory in the manner designated by the law enforcement officer in charge of investigating the sexual assault of the victim. (Okla. Admin. Code §185:15-1-4(b))	Sexual Assault Examination Fund (21 Okla. Stat. Ann. §142.20; Okla. Admin. Code §185:15-1-1)

<b>State</b>	<i>Law enforcement report requirements</i>	<i>Evidence retention</i>	<i>Sexual Assault/Forensic Examination Fund?</i>
<b>Oregon</b>	The victim of a sexual assault may obtain a medical assessment and complete and submit a form under this section regardless of whether the victim reports the sexual assault to a law enforcement agency. (Or. Rev. Stat. §147.397(8))	Providers of medical assessments that seek reimbursement under this section shall store forensic evidence collection kits and transfer custody of the kits to a law enforcement agency having jurisdiction over the geographic area where the provider is located (Or. Rev. Stat. §147.397(5)(b)); Law enforcement agencies that receive evidence collection kits shall preserve the kits and any related evidence for at least six months. (Or. Rev. Stat. §147.397(6))	Sexual Assault Victims' Emergency Medical Response Fund (Or. Rev. Stat. §147.399)
<b>Pennsylvania</b>		Pennsylvania State Police shall ensure that the analysis and laboratory testing of collected evidence, including samples that may contain traces of a date rape drug, are accomplished. (35 Pa. Const. Stat. §10172.3(b)) Healthcare providers that seek reimbursement for forensic evidence collection must give the evidence to police, district attorney's office or the county children and youth services agency, in order for the payments to be considered. If the evidence is not given to one of those entities, the hospital or licensed health care provider may be responsible for the costs of the forensic rape examination and medications provided.	
<b>Puerto Rico</b>	No information found.		
<b>Rhode Island</b>	An applicant must demonstrate that the crime, for which they seek compensation, has been reported to the police. Crimes involving victims of sexual assault may be reported to a Sexual Assault Nurse Examiner or other medical professional for compensation related to the costs of forensic sexual assault exams (R.I. Code §29-1-5:1.06(2)(e)).		
<b>South Carolina</b>	No information found.		
<b>South Dakota</b>	Examination shall be provided without cost to the victim if the alleged offense is reported to the state (S.D. Codified Laws §22-22-26)		

<b>State</b>	<i>Law enforcement report requirements</i>	<i>Evidence retention</i>	<i>Sexual Assault/Forensic Examination Fund?</i>
<b>Tennessee</b>	Victims shall not be required to report the incident to law enforcement officers in order to be eligible for payment of forensic medical examinations. (Tenn. Code Ann. §29-13-118(b)(2))		
<b>Texas</b>		Evidence preserved until the earlier of the second anniversary of the date the evidence was collected; or the date on which written consent to release the evidence is obtained. (Vernon's Ann. Tex. Code of Crim. Proc. Ann. Art. §56.065(g))	
<b>Utah</b>	The health care provider, of a sexual assault forensic examination shall report the examination to law enforcement unless otherwise informed by the patient. Reporting to law enforcement and cooperation is not a condition for payment. (Utah Admin. Code r. 270-1(R270-1-22)(A)(1))		
<b>Vermont</b>	No information found.		
<b>Virginia</b>	No information found.		
<b>Virgin Islands</b>	Victims of criminal sexual conduct, in any degree, shall not bear the cost of the routine medicolegal exam following the assault, provided the victim has filed an incident report with the U.S. Virgin Islands Police Department. (V.I. Code Ann. tit. 34, § 206(a))		
<b>Washington</b>	No information found.		

<b>State</b>	<i>Law enforcement report requirements</i>	<i>Evidence retention</i>	<i>Sexual Assault/Forensic Examination Fund?</i>
<b>West Virginia</b>			Forensic Medical Examination Fund (W. VA. Code § 61-8B-15)
<b>Wisconsin</b>	The award shall be the examination costs, regardless of whether the victim, or any guardian of the victim, cooperates with a law enforcement agency regarding the sex offense. Cooperation with law enforcement is defined to include reporting the crime. (Wis. Stat. Ann. §949.26(1)(a))		
<b>Wyoming</b>	Upon consent of the victim to release of the results of the examination, the evidence, record and reports shall be delivered to the law enforcement agency (Wyo. Stat. Ann. §6-2-309(a))		