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BILL ANALYSIS

Senate Fiscal Agency

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House Bill 4623 (as reported without amendment)**Sponsor: Representative Nelson Saunders****House Committee: Public Health****Senate Committee: Judiciary****Date Completed: 12-16-87*****RATIONALE***

Since 1977, the Michigan State Police have been making available sexual assault evidence kits for the purpose of standardizing the methods used in gathering, handling, and shipping evidence collected from persons who claim to have been the victims of rape and other sexual assaults. The State Police, who handle the bulk of the evidence for sexual assault cases statewide, say experience shows that the quality of evidence suffers when procedures other than those prescribed by the kit are employed. Sometimes, for example, samples are sent to the police lab in inadequate containers and the samples are moldy when they arrive or are labeled and documented so poorly that they would be inadmissible in court. Reportedly, many hospitals use the sexual assault evidence kit, but some do not, which sometimes frustrates efforts to prosecute sexual assault cases. It has been suggested that use of the kits by hospitals be made mandatory.

CONTENT

The bill would amend the Public Health Code to provide that, if an individual told a physician or other staff member of a hospital that within the preceding 24 hours the individual had been the victim of criminal sexual conduct, the attending health care personnel responsible for examining or treating the individual would be required to inform the person of the availability of a sexual assault evidence kit. With the consent of the individual, the attending health care personnel would have to perform or have performed on the individual the procedures required by the sexual assault evidence kit.

The bill specifies that the administration of a sexual assault evidence kit would not be a medical procedure. "Sexual assault evidence kit" would mean a standardized set of equipment and written procedures approved by the State Police for gathering evidence of sexual conduct of the type offered in court for prosecuting criminal sexual conduct cases.

Proposed MCL 333.21527

FISCAL IMPACT

The bill would result in no additional costs to State or local units of government. The Michigan Department of State Police currently provides the sexual assault evidence kits free of charge to hospitals and other health agencies. The cost of the kits is assumed in the Department of State Police budget.

ARGUMENTS***Supporting Argument***

The bill would require hospitals to use a sexual assault evidence kit approved by the State Police. Obviously, it is

crucial to the successful prosecution of sexual assault cases that evidence be collected competently and completely and labeled properly and that its integrity be maintained from the time of collection until it reaches a police laboratory. Many hospitals are using these kits now, but some do not. According to those who advocate the use of the standardized kit, the use of the kit has stimulated greater cooperation between police, medical and laboratory personnel, and the victim as a result of having an organized collection technique which lends credibility and confidence to the program as compared to the previous random, disorganized method of handling these matters. They also say that prior to the use of this kit, the procedures were disorganized, unreliable, unsystematic, more traumatic for victims and poorly documented. Use of the kit helps the criminal justice system deal more successfully with sexual assault prosecutions.

Opposing Argument

Concern has been expressed that physicians could be susceptible to malpractice suits if they did not perform the procedures required by the bill.

Response: The bill specifies that administration of the kit would not be a medical procedure.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.