

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4505

A bill to amend 1976 PA 223, entitled

"An act to create an agency concerned with crime victim services; to prescribe its powers and duties; to provide compensation to certain victims of crimes; to provide for the promulgation of rules; and to provide for penalties,"

by amending section 5a (MCL 18.355a), as added by 2008 PA 391.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5a. (1) A health care provider is eligible to be paid for
2 a sexual assault medical forensic examination under this section
3 only if that examination includes all of the following:

4 (a) The collection of a medical history.

5 (b) A general medical examination, including, but not limited
6 to, the use of laboratory services and the dispensing of prescribed
7 pharmaceutical items.

8 (c) One or more of the following:

9 (i) A detailed oral examination.

1 (ii) A detailed anal examination.

2 (iii) A detailed genital examination.

3 (d) Administration of a sexual assault evidence kit under
4 section 21527 of the public health code, 1978 PA 368, MCL
5 333.21527, and related medical procedures and laboratory and
6 pharmacological services.

7 (2) A health care provider shall not submit a bill for any
8 portion of the costs of a sexual assault medical forensic
9 examination to the victim of the sexual assault, including any
10 insurance deductible or co-pay, denial of claim by an insurer, or
11 any other out-of-pocket expense.

12 (3) A health care provider seeking payment under this section
13 for a sexual assault medical forensic examination shall do all of
14 the following:

15 (a) Advise the victim, orally and in writing, that a claim
16 shall not be submitted to his or her insurance carrier without his
17 or her express written consent, and that he or she may decline to
18 consent if he or she believes that submitting a claim to the
19 insurance carrier would substantially interfere with his or her
20 personal privacy or safety.

21 (b) If the victim gives his or her consent as provided under
22 subdivision (a), submit a claim for the cost of a sexual assault
23 medical forensic examination to the victim's insurance carrier,
24 including, but not limited to, ~~medicaid and medicare.~~ **MEDICAID AND**
25 **MEDICARE.**

26 (4) A health care provider may seek payment from 1 or both of
27 the following if reimbursement cannot be obtained from the victim's

1 insurance or insurance is unavailable:

2 (a) The commission under this section.

3 (b) From another entity other than the victim.

4 (5) A health care provider that is reimbursed for a sexual
5 assault medical forensic examination by a victim's insurance
6 carrier shall not submit to the commission any portion of the claim
7 reimbursable by the insurance carrier.

8 (6) A health care provider that is reimbursed for a sexual
9 assault medical forensic examination by another entity shall not
10 submit to the commission any portion of the claim reimbursable by
11 the other entity.

12 (7) The commission shall pay a health care provider not more
13 than ~~\$600.00~~ **\$1,200.00** for the cost of performing a sexual assault
14 medical forensic examination, including, but not limited to, the
15 cost of 1 or more of the following:

16 (a) Not more than ~~\$400.00~~ **\$700.00** for the use of an emergency
17 room, clinic, or examination room, and the sexual assault medical
18 forensic examination and related procedures other than services and
19 items described in subdivisions (b) and (c).

20 (b) ~~Not more than \$125.00 for laboratory~~ **LABORATORY** services
21 **RELATED TO THE SEXUAL ASSAULT.**

22 (c) ~~Not more than \$75.00 for dispensing~~ **DISPENSING**
23 pharmaceutical items related to the sexual assault.

24 (8) A claim for compensation under subsection (7) shall be
25 submitted to the commission in a form and in the manner prescribed
26 by the commission.

27 (9) Except with the victim's consent or as otherwise provided

1 in this subsection, information collected by the commission under
2 this section that identifies a victim of sexual assault is exempt
3 from disclosure under the freedom of information act, 1976 PA 442,
4 MCL 15.231 to 15.246, shall not be obtained by subpoena or in
5 discovery, and is inadmissible as evidence in any civil, criminal,
6 or administrative proceeding. Information collected by the
7 commission under this section that identifies a victim of sexual
8 assault is confidential and shall only be used for the purposes
9 expressly provided in this act, including, but not limited to,
10 investigating and prosecuting a civil or criminal action for fraud
11 related to reimbursement provided by the commission under this
12 section.

13 (10) A victim of sexual assault shall not be required to
14 participate in the criminal justice system or cooperate with law
15 enforcement as a condition of being administered a sexual assault
16 medical forensic examination. For payments authorized under this
17 section **OR FOR PAYMENTS MADE TO VICTIMS UNDER SECTION 6**, ~~the~~
18 ~~victim's request for~~ **ADMINISTRATION TO THE VICTIM OF** a sexual
19 assault medical forensic examination satisfies the requirements for
20 prompt law enforcement reporting and victim cooperation under
21 sections 6 and 10.

22 (11) As used in this section:

23 (a) "Health care provider" means any of the following:

24 (i) A health professional licensed or registered under article
25 15 of the public health code, 1978 PA 368, MCL 333.16101 to
26 333.18838.

27 (ii) A health facility or agency licensed under article 17 of

1 the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

2 (iii) A local health department as that term is defined in
3 section 1105 of the public health code, 1978 PA 368, MCL 333.1105.

4 (b) "Sexual assault" means a criminal violation of sections
5 520a to ~~520~~**520N** of the Michigan penal code, 1931 PA 328, MCL
6 750.520a to ~~750.520~~**750.520N**.

7 (c) "Sexual assault medical forensic examination" means that
8 term as described in subsection (1)(a) to (d).

9 Enacting section 1. This amendatory act takes effect 90 days
10 after the date it is enacted into law.